

10-1987

Joint Information Hearing on the Department of Fish and Game

Assembly Committee on Water, Parks and Wildlife

Assembly Governmental Organization Committee

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ASSEMBLY WATER, PARKS AND WILDLIFE COMMITTEE
AND
ASSEMBLY GOVERNMENTAL ORGANIZATION COMMITTEE

JOINT INFORMATIONAL HEARING ON THE
DEPARTMENT OF FISH AND GAME

October 27 - 28, 1987
Sacramento, California



Honorable Jim Costa
Chairman
Assembly Water, Parks and Wildlife Committee

Honorable Gary Condit
Chairman
Governmental Organization Committee

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GOLDEN GATE UNIVERSITY

JOINT INFORMATIONAL HEARING ON
THE DEPARTMENT OF FISH AND GAME

by the

ASSEMBLY COMMITTEE ON
WATER, PARKS AND WILDLIFE
Honorable Jim Costa, Chairman

and the

ASSEMBLY COMMITTEE ON
GOVERNMENTAL ORGANIZATION
Honorable Gary Condit, Chairman

Sacramento, California
October 27 -28, 1987

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TABLE OF CONTENTS

PAGE

October 27, 1987

Opening Remarks by Assemblyman Jim Costa.....	1
Chairman, Assembly Water, Parks, and Wildlife Committee	
Mr. John A. Moger, Deputy Legislative Counsel,.....	4
Legislative Counsel	
Mr. Peter Sakai, Chief, Compliance and.....	5
External Audits Branch, Department of Fish and Game	
Mr. Peter F. Bontadelli, Director,.....	5
Department of Fish and Game	
Mr. Dewayne Johnston, Chief,.....	17
Wildlife Protection Branch, Department of Fish and Game	
Mr. Phillip Jelichich, Audit Manager,.....	35
Office of the Auditor General	
Mr. Kenneth J. Kukuda, Publisher/Editor,.....	39
South Coast Sportfishing Magazine	
Mr. Mario Alioto, Chairman of the Board,.....	56
California Seafood Institute and Executive Vice President, Washington Fish and Oyster Company of California	
Mr. Gordon Lynn Cribbs, Patrol Chief,.....	62
Region V, Department of Fish and Game	
Mr. Eugene B. Toffoli, Legal Advisor,.....	75
Department of Fish and Game	
Mr. Richard L. Hubbard, Executive Director,.....	115
California Natural Resources Federal	
Mr. Bill Yeates, Pacific Coast Federation.....	124
of Fishermen's Association	

TABLE OF CONTENTS

	<u>PAGE</u>
Mr. James C. Wictum, Retired Deputy Chief,.....	137
Wildlife Protection Branch,	
Department of Fish and Game	
Mr. Christopher Wright, Citizen.....	160
Mr. Reed Smith, Citizen.....	161
Mr. Al Petrovich, Chief, Marine Resources.....	194
Division, Department of Fish and Game	
Ms. Olga Carmichael, Chief, License.....	200
Revenue Branch, Department of Fish and Game	
Mr. Edward O. Willis, Assistant Director of.....	200
Administration, Department of Fish and Game	
Mr. Kurt Sjoberg, Chief Deputy,.....	200
Office of the Auditor General	
Mr. Richard L. Cutting, Chief, Audit Division,.....	201
Department of Finance	
Ms. Sandy Weiss, Program Review Analyst,.....	201
Department of Finance	
Mr. John R. Gaither, Supervisor,.....	214
Lassen County	
Mr. Murray Edwards, Auditor,.....	230
Office of the Auditor General	
Mr. Eldridge Hunt, Chief, Wildlife Management.....	245
Division, Department of Fish and Game	
Mr. James Clayton, Director, National.....	258
Domestic Ferrets Association	
Mr. Edward Hemman, Citizen.....	270
<u>October 28, 1987</u>	
Opening remarks by Assemblyman Gary Condit,.....	279
Chairman, Governmental Organization	
Committee	
Mr. Harvey Stillman Baird, Citizen.....	280

TABLE OF CONTENTS

PAGE

Mr. Ronald Raymond Parker, North State.....	283
Sportsmen's Coalition	
Mr. Wayne Robert Bradley, Board of Directors,.....	287
Organized Sportsmen of Lassen County	
Mr. John Gaither, Supervisor,.....	291
Lassen County	
Mr. Steven Kearns, Wildland Resource Managers.....	303
Mr. Wayne Long, President,.....	308
Multiple Use Managers, Inc.	
Mr. Jeff Scharff, California Wildlife Unlimited.....	314
Mr. Harold Eade, California Wildlife Unlimited.....	315
Mr. William Powell, Operator of the Battle.....	325
Creek Private Land Management, Tehama County	
Mr. George Kasoles, Rancher.....	336
Mr. George Neary, Citizen.....	344
Mr. William F. Barnum, Operator of Barnum.....	353
Wildlife Management Company	
Mr. Joe Precissi, Manager, Snowstorm Ranch,.....	367
Lassen County	
Mr. Gene Gardner, President,.....	370
Clover Creek Hunting Club	
Mr. Frank Dawley, Rancher.....	374
Mr. John Tooker, California Cattlemen's.....	379
Association	
Ms. Judy Estill, California Cattlemen's.....	379
Association	
Ms. Sheila Massey, California Cattlemen's.....	379
Association	
Mr. Bud Hemman, Citizen.....	386
Mr. Gerald Upholt, California Wildlife.....	391
and California Sportsmen's Lobby	

TABLE OF CONTENTS

	<u>PAGE</u>
Mr. Terry Mansfield, Wildlife Managment.....	396
Division, Department of Fish and Game	
Mr. Jerry Mensch, Region II, Environmental.....	396
Services Section, Department of Fish and Game	
Mr. Banky Curtis, Region I, Wildlife Management.....	396
Division, Department of Fish and Game	
Mr. Peter F. Bontadelli, Director,.....	397
Department of Fish and Game	
Mr. Mark Palmer, Sierra Club.....	462
Mr. Robert Ross, California Seafood Institute.....	471
Mr. Robert Rawstron, Inland Fisheries Division,.....	474
Department of Fish and Game	
Mr. Donald Manzler, Inland Fisheries Division,.....	475
Department of Fish and Game	
Mr. Ken Hashagen, Inland Fisheries Division,.....	475
Department of Fish and Game	
Mr. Almo Cordone, Inland Fisheries Division,.....	475
Department of Fish and Game	
Mr. Curtis Hiser, Irongate Hatchery,.....	480
Department of Fish and Game	
Mr. Bill Yeates, Pacific Coast Federation.....	483
of Fishermen's Association	
Mr. Ernie Fanner, Supervisor, Yolo County.....	491

APPENDICES

	<u>PAGE (S)</u>
A. Written statement presented by Peter M. Sakai, Chief, Compliance and External Audits Branch, Department of Fish and Game, on AB 3081 implementation.	A-1 - A-2
B. Written testimony by Kenneth J. Kukuda, Publisher/Editor of South Coast Sportfishing Magazine, regarding the management and operation of the Department of Fish and Game.	B-1 - B-6
C. Copy of lawsuit: California Sportfishing Association, Kenneth J. Kukuda vs. Jack C. Parnell, Director, Department of Fish and Game.	C-1 - C-3
D. Written testimony by DeWayne Johnston, Wildlife Protection Branch, Department of Fish and Game, regarding Marine Law Enforcement.	D-1 - D-7
E. Written testimony by Richard L. Hubbard, Executive Director, California Natural Resources Federation, on the Management and Operation of the Department of Fish and Game.	E-1 - E-8
F. Written testimony of Nathaniel S. Bingham, President, Pacific Coast Federation of Fishermen's Associations on Department of Fish & Game's funding of commercial fishery programs, enforcement of commercial fishing laws, and hatchery programs.	F-1 - F-14
G. Written testimony by Edward O. Willis, Assistant Director for Administration, Department of Fish & Game, License and Revenue Branch, on Big Game Drawings/X5B Audit.	G-1 - G-3
H. Written testimony by Edward O. Willis, Assistant Director for Administration, Department of Fish & Game, on Assembly Bill 2436, License and Revenue Branch of the Department of Fish and Game.	H-1 - H-6
I. Written testimony by Supervisor John R. Gaither, District 3, Lassen County, Susanville, California, on Issues of X-5B deer tags.	I-1 - I-4

J.	Summary on deer hunting Zone X-5b, October 1987.	J-1
K.	Audit of Department of Fish and Game's program for issuing deer hunting tags in Zone X5b, Lassen County, by Thomas W. Hayes, Auditor General, Office of the Auditor General.	K-1
L.	Written testimony by Harvey Baird, citizen, opposing the Private Land Management Program.	L-1 - L-2
M.	Written testimony by Ron Parker, North State Sportsmen's Coalition, Montague, California, on the Private Land Management Program.	M-1 - M-4
N.	Written testimony by Wayne Long, President of Multiple Use Managers, Inc., on Department of Fish & Game, Private Land Management Program.	N-1 - N-4
O.	Written testimony by Walton Powell, Operator of the Battle Creek Ranch, Tehama County, on the Private Land Management Program.	O-1 - O-2
P.	Written testimony of George C. Kasolas, Rancher, on the Private Land Management Program.	P-1 - P-7
Q.	Written testimony of George Neary, licensed hunter, on the Private Land Management Program.	Q-1 - Q-3
R.	Summary of presentation by William F. Barnum, Barnum Wildlife Management Company, Eureka, California, regarding the Private Land Management Program.	R-1 - R-19
S.	Written testimony of Joe Precissi, Manager of Snowstorm Ranch, Lassen County, on the Private Land Management Program.	S-1
T.	Letters from Dave Fitzpatrick, Owner, Fitzpatrick Ranch, and Gene Gardner, Manager, Clover Creek Hunting Club, Moffett Creek Ranch, Palo Cedro, California, on the Private Land Management Program.	T-1 - T-2
U.	Written statement from Frank Dawley, President, Tehama County Resource Conservation District, on the Private Land Management Program.	U-1 - U-6
V.	Written statement and summary on behalf of California Cattlemen's Association by Sheila Massey, Director for Regulatory Affairs, and John Tooker, Legislative Advocate, on the Private Land Management Program.	V-1 - V-3

W.	Written statement by Eldridge Hunt, Chief Wildlife Investigations Laboratory, Department of Fish & Game, on the Private Land Management Program.	W-1 - W-2
X.	Written report on Migratory Deer in Butte County, and a summary of the Deer Management Program.	X-1 - X-17
Y.	Statement by Ken Hashagen, Hatchery Coordinator for the Statewide Hatchery System.	Y-1 - Y-3
Z.	Correspondence from James Clayton, National Domestic Ferret Association (NDFA), Vallejo, California regarding Domestic Ferrets.	Z-1
Za.	Summary of the Private Land Wildlife Management Program by Judy Estil.	Z1a. - Z3a.
Zb.	Written testimony by Stanley R. Radom, Chairman, Legislative Committee, Sportsmen's Council of Central California, Solvang, on the Private Land Management Program.	Z1b. - Z9b.

OPENING REMARKS


Joint Committee Hearing on the Department of Fish and Game

October 27 and 28, 1987

The Assembly Committees on Water, Parks and Wildlife and Governmental Organization have called this joint hearing to address allegations which have been raised concerning the administration of Department of Fish and Game programs, and provide individuals with an opportunity to present evidence. For the audience's information, the Water, Parks and Wildlife Committee held a hearing two years ago, on December 4, 1985, to address similar allegations.

There have been numerous issues raised from different interest groups pertaining to a variety of Department programs. Those issues which have been raised but cannot be addressed today will be the subject of hearings in January. Those programs which have been specifically mentioned are: the cost accumulation system, and an in-depth review of the Wildlife Protection Branch.

The Water, Parks and Wildlife Committee will also announce a schedule for hearings regarding the Fish and Game Commission. The Fish and Game Commission's authority will be before the Legislature in January 1989 for renewal, and hearings in 1988, would provide the Legislature with an opportunity to seek public opinion on the Commission and its role prior to reauthorization of its authority.


JIM COSTA
Chairman

JOINT HEARING OF THE
WATER, PARKS AND WILDLIFE COMMITTEE
Honorable Jim Costa, Chairman
and
GOVERNMENTAL ORGANIZATION COMMITTEE
Honorable Gary Condit, Chairman

October 27-28, 1988
Sacramento, California

CHAIRMAN JIM COSTA: The meeting will come to order.

The joint hearing that we are holding today with both Governmental Organization and Water, Parks and Wildlife has been put together to cover a number of areas. The joint hearing will address allegations which have been raised concerning the administration of the Department of Fish and Games' programs and also provide individuals an opportunity to present evidence.

For the audience's information, the Water, Parks and Wildlife Committee held a hearing two years ago, on December 4th of 1985 to address similar allegations at that time. There have been numerous issues raised from both different interest groups pertaining to a variety of the Department's programs, both sports and commercial interests, as it relates to fish and game and other entities as well. Those issues which have been raised but cannot be addressed today will be the subject of hearings that we'll hold in January with support and cooperation with Sub Three.

Members of both the Water, Parks and Wildlife Committee and the chairman of Subcommittee Three, Mr. Steven Peace, are with us today. Mr. Peace's subcommittee handles, as most of you are aware, the budget authorization for the resources area, which includes obviously the Department of Fish and Game. His

committee and his staff have a number of concerns relative to budget items some of which, I suspect, will be discussed today.

The Water, Parks and Wildlife Committee will also announce a schedule of hearings regarding the Fish and Game Commission. The Fish and Game Commission's authority will be before the Legislature in January of 1990 for renewal. It's my intent to hold hearings in 1988 to provide the Legislature with an opportunity to seek public opinion on the Commission and its role prior to the reauthorization of its authority.

I might add two other points: one, we have a list that has been put together to deal with today's agenda and witnesses that wish to testify and tomorrow's as well. For those of you who are not on the agenda list but would like to testify, we will have a sign-in in the back there. Please go to the person, Debra, want to raise your hand? There we go. And sign in and who you're representing, or if you're representing yourself, that's fine, so that we can try to incorporate you into the hearing process as we proceed through the agenda.

The other item is that we will be swearing in the witnesses. John Moger, from the Legislative Counsel's Office will perform that task. I think that really covers it.

This morning we want to deal with the implementation of AB 3081, the Felando legislation that now is in law, how it is being implemented, what's going well and what is not working out, and we'd also like to deal with the enforcement of commercial fishing laws and regulations. Those are the areas we'd like to cover before lunch.

After lunch, Mr. Condit will chair the hearings and we'll reverse the order on Wednesday so that we get a real balance. With that understood, any comments from any members of the committee?

Mr. Chairman, Mr. Condit?

CHAIRMAN GARY CONDIT: I just want to make a brief comment. I got involved in this issue because in the past six months I've received numerous complaints about the Department and some of the programs and policies, and the complaints started out in my own Assembly district and kind of mushroomed throughout the State of California. We suggested to Mr. Costa and some of the other people in the Legislature that we hold this hearing to review some of those complaints and some of the programs by the Fish and Game Department. I really believe that, today, this hearing will enable us to hear some of the views of the Department and some of the program chairs, the directors, and some of the citizens themselves. So, basically, I come into this hearing objective, not convinced that all the complaints I've heard are correct, not convinced that they're wrong, and so I think we're going to have a meaningful hearing and one in which we can better understand what's going on after this couple of days.

That's really all I have to say. I would like to thank the members from the Governmental Organization Committee for attending and being a part of the hearing today, and I would like to thank Mr. Costa and his staff for working with me and my staff over the past few weeks. I know that sometimes we were somewhat novice in this area, but we appreciate your help very much.

CHAIRMAN COSTA: Well, we appreciate your interest, Mr. Condit and members of both committees for being here this morning, and we'll simply let the chips fall where they may.

AB 3081 is the first item on the agenda. It was introduced by Mr. Felando and passed by both houses, signed into law. It was done so to provide a clear and understandable provision for specifying who shall pay what taxes in the area of fish taxes that are collected in the commercial area. It also requires that a licensed fish receiver, or commercial fisherman who sells fish to any person who is not a licensed receiver, shall pay landing taxes on fish delivered by commercial fishermen in this state. As for the collection of back taxes mandated by the Attorney General's opinion, the bill superseded the portion of the opinion requiring the Department to retroactively collect taxes from subsequent handlers of fish by correcting and clarifying the Fish and Game Code to the Department's long-established administrative practice of imposing and collecting previous fish taxes at the point of first landing in the state. So, 3081 attempted to clarify what was an ambiguous law to begin with.

We'd like to begin with the first witness to deal with this area, how the Department is implementing that law, and the first witness is Peter Sakai, who deals with the Audits Branch of the Department of Fish and Game. Mr. Moger, if you'll provide the swearing in, Mr. Sakai, and we'll proceed from there.

MR. JOHN MOGER: Will you gentlemen please identify yourselves for the record?

MR. PETER SAKAI: My name is Peter Sakai from the Department of Fish and Game Compliance Section.

MR. PETE BONTADELLI: I'm Pete Bontadelli (inaudible).

MR. MOGER: All right. Do each of you gentlemen solemnly swear affirmatively that the testimony you are about take to this committee shall be the truth, the whole truth, and nothing but the truth?

MR. SAKAI: Yes.

MR. BONTADELLI: I do.

CHAIRMAN COSTA: Very good. Mr. Sakai, will you please begin your testimony? We have a copy of his statement, members of the committees.

MR. SAKAI: Assembly Bill 3081, the Felando-Polanco Fisheries Act of 1986, was implemented by the Department in accordance with timelines specified in the bill. Several areas were affected by the enactment of AB 3081. Effective January 1, 1987, fees for commercial fish business licenses were increased significantly and the licensing requirements were drastically revised. Documentation requirements for commercial fish transactions were revised. The privilege tax on fish was redefined as a landing tax. Fish privilege taxes, which were determined to be due to the state by an Attorney General's legal opinion, from second and subsequent tier handlers of fish, were compromised with certain exceptions. AB 3081 also affirmed the past practices of the Department in the collection of the fish privilege tax from first tier handlers of fish and from licensees who can or cook fish imported into this state.

With the exception of permits for the commercial harvesting of salmon, nearly all commercial fishing license and permit fees were increased. On the second...

CHAIRMAN CONDIT: Mr. Sakai, isn't there some litigation that is still pending with some of the handlers who are disputing some of the back taxes that are attempting to be collected?

MR. SAKAI: Yes, that's correct. Two shrimp processors.

CHAIRMAN CONDIT: Okay. In other words, there's some dispute among some shrimp processors that they don't feel that they owe the money that the Department indicates that they do and currently the Attorney General's office is in litigation with those processors, is that not correct?

MR. SAKAI: Correct.

CHAIRMAN CONDIT: Okay. Please go ahead.

MR. SAKAI: Because AB 3081 had such a far reaching effect on the Department's operations and on the commercial fishing industry, an AB 3081 implementation committee was established to coordinate efforts to modify procedures, notify commercial fishermen and commercial fish businesses of new requirements, develop the necessary record keeping systems, train field personnel, create new forms, license applications, license stamps and tax reports.

The AB 3081 Implementation Committee was composed of staff from Licenses and Revenue Branch, Wildlife Protection Division, Information Services, Marine Resources Division, and the Compliance and External Audits Branch. Through the efforts of the AB 3081 Implementation Committee and field staff

throughout the state, all provisions of 3081 except for the study on alternative funding which is due on January 1, 1988, have been implemented. The Department previously estimated that enactment of AB 3081 would increase fiscal year 1986-87 commercial fishing revenues by approximately \$1.2 million. Comparison of fiscal year 1985-86 and preliminary fiscal year 1986-87 commercial license and tax revenues show a \$1,095,613 increase.

To help maintain this increased level of funding, the Department has established an annual commercial fish business licensing compliance program and AB 3081 training program. The license and compliance program is designed to follow up on businesses who have not renewed their licenses for the current fiscal year, also businesses and persons who are suspected of landing fish without the appropriate license will also be contacted. This enforcement plan requires a participation of field personnel, especially in regions 1, 3 and 5.

In fiscal year 1985-87, 1,122 commercial fish business contacts were made and documented by the Special Operations Unit Regional Assistance team, field wardens, and audit staff as a result of increased efforts to enforce licensing requirements. The AB 3081 commercial fish business licensing and landing tax training is available to all regions upon request.

Future efforts to monitor and prove compliance with fish receiving requirements within specific fisheries are presently in the planning stages.

Thank you.

CHAIRMAN COSTA: Thank you. Any questions by the members of the committee?

Mr. Condit?

CHAIRMAN CONDIT: Well, I guess, Mr. Bontadelli, do you have a statement?

MR. BONTADELLI: No, I don't.

CHAIRMAN COSTA: He's here to respond to questions.

CHAIRMAN CONDIT: How do our permit rates and license fees compare to other coastal states?

MR. SAKAI: We have not made that comparison. The licensing structure is quite complex, and we haven't compared it to other states.

CHAIRMAN CONDIT: You haven't compared it with Oregon or Washington?

MR. SAKAI: No, we have not.

CHAIRMAN CONDIT: And obviously, then, you don't know if other states require that a tax be imposed whenever the fish changes hands from one dealer to another dealer.

MR. SAKAI: I believe that Oregon does have a tax. I'm not..., a landing tax on fish. I'm not too sure how that works.

CHAIRMAN CONDIT: Does this bill generate as much revenue as you anticipate, now that it's been signed into law?

MR. SAKAI: Our preliminary figures do indicate that the Department has realized an increase.

CHAIRMAN CONDIT: But not as much as you thought it was going to be?

MR. SAKAI: We estimated a \$1.2 million increase, we received a \$1,095,000 increase. That's just in landing tax revenues and commercial license revenues.

CHAIRMAN CONDIT: Well, then there's the money that's accumulated from the bill. Is it reducing the deficit in the Department's commercial fishing account?

MR. BONTADELLI: The overall commercial fishing account showed a surplus in 1985-86, but not a significant surplus to cover the increase anticipated in expenditures, therefore we went with the increase contained in this bill. The preliminary numbers indicate that we will still have a balance in that account at the end of the 1986-87 fiscal year. We have one at that point, and we anticipate having roughly an even number by the end of the current fiscal year. The report required by the bill that is due in January among other things is to do a comparison of the long-term needs, current sources of revenue in the commercial industry, indicate to the Legislature the areas of expenditure in the commercial area, and to make any recommendations for appropriate changes in long-term taxation in order to ensure that the commercial account is, in fact, paying for itself as required by Section 711 of the...

CHAIRMAN CONDIT: So you'll know that information correctly then in January?

MR. BONTADELLI: That is correct. We're in the process of compiling that report now.

CHAIRMAN CONDIT: That study will be complete by January first?

MR. BONTADELLI: It is our goal to have it completed by January first, and we have assigned, hired a retired annuitant to come back and help us compile it and put it together by that time.

CHAIRMAN CONDIT: Because that information will be helpful to us in the January hearings that we will be holding together, and we certainly won't want to proceed until we have that completed study.

MR. BONTADELLI: At this point, we anticipate having it.

CHAIRMAN COSTA: I have a couple of other questions. How effective has the Department been in licensing the businesses since the enactment of AB 3081?

MR. SAKAI: The Department has organized as I mentioned in my statement, the Department has established an annual commercial fish business licensing compliance program. I feel that it's been very effective based on our analysis of the increase in license sales from the beginning of the program through the end of last fiscal year. As I stated, in fiscal year 1985-87, 1,122 businesses were contacted by our field personnel, and I believe during that same period we increased our licenses by a total of 534 licenses.

CHAIRMAN COSTA: The cost of those licenses are the same whether you're a large commercial operator or a Mom and Pop small operator, is that correct?

MR. SAKAI: That's correct. It's also dependent upon the activities that are conducted within the business.

CHAIRMAN COSTA: How does that work in a district like yours, Dan, because I know there's been some problems.

ASSEMBLYMAN DAN HAUSER: Yes, Mr. Chairman, thank you. If we go back and look at 3081, this is one of the areas I believe we're going to have to address. There have not been substantial complaints, but there is a concern expressed in that some of the large processors with multiple outlets and operations operate under only one permit, whereas the small operation also has to have the same permit. I believe that this is one of the few if any inequities that we've found in 3081 that should be addressed in follow-up legislation.

CHAIRMAN COSTA: On the shrimp taxes I made reference to earlier as it related to the litigation, how much taxes have you collected from shrimp processors thus far?

MR. SAKAI: In relation to the Attorney General's opinion specifically? We have collected to date \$107,817.

CHAIRMAN COSTA: \$107,000?

MR. SAKAI: Correct.

CHAIRMAN COSTA: Was there any penalty in interest on that collection?

MR. SAKAI: No.

CHAIRMAN COSTA: Okay. Have any businesses requested a refund from the Department pursuant to the Attorney General's opinion on July 10, 1985?

MR. SAKAI: Specifically related to the shrimp tax, or...?

CHAIRMAN COSTA: Yes.

MR. SAKAI: Correct, the salmon smokers have submitted claims for refunds.

CHAIRMAN COSTA: And how much has been refunded, if any?

MR. SAKAI: To date, we have refunded \$47,610 with an additional \$154,700 due one company and another \$141,873 to another company.

CHAIRMAN COSTA: Do these funds come from the Fish and Game account or do they come from the commercial fishing account?

Do they come from the preservation fund or the commercial?

MR. BONTADELLI: The Fish and Game Preservation Fund is the source. And the reason is this, there is not a separate commercial account. We are required to keep separate accounting of the funds within that account...

CHAIRMAN COSTA: But you commingle the monies?

MR. BONTADELLI: It is a single account in terms of the way it is established. There is not a separate account that has ever been created legislatively or by any other method, so what happens is the total revenues from the commercial area come in and are put into the Fish and Game Preservation Fund. All expenditures for commercial purposes are made from that account. We are required to break out in our cost accumulation what sources are commercial, what the expenditures are in the commercial end to show what they are, but there is not a specific subaccount at this point.

CHAIRMAN COSTA: But then monies that are set aside for the preservation of fish, or with the intent for that purpose, we

can, in effect, and what you're saying, take funds from the commercial account for that purpose and spend it on areas that it wasn't intended for, is that...?

MR. BONTADELLI: There are currently 17 subaccounts within the Fish and Game account. Of those subaccounts, some are dedicated. The salmon stamp, for example, is dedicated to herring taxes, dedicated..., some are dedicated. The majority of the revenue, however, coming from general license revenue for commercial fishermen or the boat registrations goes into the general account. We can tell you how much total came in, we can tell you the total commercial expenditures, and that's how you compare the account, but there is not a separate commercial account in terms of the way it's broken out.

CHAIRMAN COSTA: Let me ask you this question. Are we in danger of taking funds from the preservation account that are used..., with the intent for the purpose of preserving fishery resources, and expending that in other areas? Because if we are, then maybe we should look at making changes in that.

MR. BONTADELLI: Based on the current data that we have, it appears that the overall commercial income is still above the overall commercial expenditures, however, in the report we will be submitting in January, you watch, you see those numbers and break it out, you'll be able to draw your own conclusions on that, and at that point in time if you wish to create an overall commercial account composed of the funds coming in from commercial sources and to which expenditures are billed, we would have no problems going in that direction.

CHAIRMAN COSTA: Finally, what changes, if any, do you think the Department is considering regarding AB 3081, contemplating and has the Department been ensured of the timely collection of landing taxes, penalties and interest, and have you determined any early detection of errors in reporting landing taxes, either through inadequate wardens or staffing?

MR. SAKAI: The Department has improved its administration of the tax. We've established an automated tax compliance system which would greatly help us in the future in collecting the tax. In terms of legislation, at this point, the Department is only proposing clean up legislation to make technical changes to the provisions enacted under AB 3081.

CHAIRMAN COSTA: All right. Any other questions from members of the committee?

All right. I'll ask you, as I will all the other witnesses to testify today and tomorrow to please stick around because there may be follow-up questions that may be required and we want you to be available for that purpose. Ms. Allen, do you have a question or comment?

ASSEMBLYWOMAN DORIS ALLEN: Yes. I guess my major question would be on 3081, since we have gotten rid of the import tax in 3081 on imported fish, what is our capability, if you will, of being able to identify domestic fish versus imported fish as we track it with receipts through the system? Can you identify the difference?

MR. SAKAI: Provided that adequate documentation exists, we can usually make a reasonable attempt in identifying whether

or not a fish is imported or landed domestically. There are specific recordkeeping requirements included in provisions enacted under 3081 to make that possible.

ASSEMBLYWOMAN ALLEN: Well, it was my understanding, and I've heard reports in from the field, that it is admittedly..., and I have some documentation from your office that basically says it makes it nearly impossible to identify which fish is imported and which fish..., and of course, imported fish now has no tax on it, so it's very difficult to say which fish would be taxed, which fish would not be taxed, when it's difficult to identify which is imported and which is domestically caught fish.

MR. BONTADELLI: To the best of my knowledge, except for those items which are later canned or cooked, there was never a requirement of taxation on imported fish. What the issue was pursuant to 3081, and if I'm incorrect I'd like to have someone clarify this for me in terms of the Attorney General's opinion, perhaps Mr. Moger could do so, but basically it indicated that taxes are due on domestically landed fish, and under the terms of the opinion that was rendered, if that fish, the domestically landed fish, is then moved to second and third dealers, it would also be taxed again.

In essence, what it said is that a person who takes in fish at the coast, let's say in Eureka, has both domestically landed and imported fish that come into their shop, as they send that fish to, let's say, Sellar Inn in Sacramento, the domestically landed fish would have been taxed again under the bill prior to 3081, and I believe that there's a Legislative

Counsel's opinion that was obtained at the time that clarifies that there were no records required to be kept by vision between domestic and imported fish at any point other than at the point of landing. The only point where records have been required to be kept other than in total volume shipped was at the point of landing, so the landing receipts are the basis under which the tax had always been collected and is still collected, and in fact, the basic point where taxes have been traditionally collected, going back to 1921, was landing. The only records mandated by law to be kept on domestically landed fish were those at that point on the landing receipt. From that point on it's a total poundage of fish, with no distinction made between domestic or imported. The only exception was in the shrimp area and in the salmon area where it was later canned or cooked where specific records were required to be kept, and it is in those areas of shrimp canning and cooking and salmon smoking, which was deemed not to be a cooking process under the Attorney General's opinion, that the suit is resting and the issues of dispute are still open, so the recordkeeping now is consistent with the collection processes that have always been used by the Department going back to the 1920's.

ASSEMBLYWOMAN ALLEN: It's my understanding, and to give you an example, there were 22 tons of yellowtail reportedly illegally taken in California waters, that were later covered by an invoice from imported fish from Mexico. Initially that individual and wholesaler, processor, receiver was charged for a violation of the code based on the fact that those were illegally

landed fish and improper receipts in California. When you..., later, actually several days later, came up with a receipt from Mexico saying that his was an imported fish and therefore there would be no requirement of receipts of this fish to follow it for purposes of taxation. How would you address that now? That no longer would be the situation. They wouldn't even have to identify whether it was legally caught in California waters, receipted, or came in imported. All you'd have to do is come up with a receipt that it's imported. How would that differ today under 3081?

MR. BONTADELLI: First, let me indicate, can I ask a question just for clarification? What year did the incident you're talking about, just for clarification?

ASSEMBLYWOMAN ALLEN: It occurred prior to the passage of 3081, so it would probably be about two years ago.

CHAIRMAN COSTA: Are you going to refer this one, Mr. Bontadelli?

MR. BONTADELLI: I'm going to refer it since I don't have the details of the case.

CHAIRMAN COSTA: Have you got a designated hitter here?

MR. MOGER: Identify yourself for the record.

MR. DEWAYNE JOHNSTON: Designated hitter, I like that. Mr. Chairman...

CHAIRMAN COSTA: Hold on one second. We need to swear you in.

MR. MOGER: Would you please identify yourself for the record?

MR. JOHNSTON: Dewayne Johnston. I'm the Chief of the Wildlife Protection Division for the Department of Fish and Game.

MR. MOGER: Would you please stand and raise your right hand?

Do you solemnly swear that the testimony you are about to give this committee shall be the truth, the whole truth and nothing but the truth?

Would you state your name for the record, please?

MR. JOHNSTON: Dewayne Johnston. I'm the Chief of the Wildlife Protection Division for the department of Fish and Game.

CHAIRMAN COSTA: All right. Would you respond to the comment as it relates to the fish that were taken prior to the enactment of 3081 and the particular incident to which Ms. Allen is referring?

MR. JOHNSTON: That particular incident Ms. Allen is referring to is a case where our officers seized some yellowtail in the Southern California area, and I don't have all the details at the tip of my tongue, but Ms. Allen's concerns are valid as it relates to being able to prove the case in court. We, an officer, finds a load of fish out in the field, and the paperwork, if it's available hopefully will cover the fish and is able to do that, and in this instance there was no paperwork available, but to the best of my recollection the gentleman who was involved in it produced paperwork later on and the District Attorney refused to file a case in the matter after we took a report to him.

CHAIRMAN COSTA: You're saying the warden did finally produce the paperwork?

MR. JOHNSTON: No, not the warden, the wholesale fish dealer that had..., where the fish were delivered, where the warden seized them from, where they didn't have paperwork, the wholesaler eventually produced the paperwork and the District Attorney or the City Attorney, I don't remember which one it was....,

CHAIRMAN COSTA: Is this in San Diego?

MR. JOHNSTON: I believe it was in San Pedro or Los Angeles, in that..., Los Angeles area, and when he produced the paperwork, the prosecuting attorney decided not to file a case on it.

ASSEMBLYWOMAN ALLEN: If I may, Mr. Johnston, basically the receipt that was produced was from Mexico, is that correct?

MR. JOHNSTON: I don't really recall where the receipt was from.

ASSEMBLYWOMAN ALLEN: Because that is my concern versus what we do domestically, and it was a receipt that was produced from Mexican sale. The other part of that question would be do you know why, and was there not a demur entered into by a former director of the Department of Fish and Game and a former chief of patrol, who indeed, rather than the reason that the D.A. did not prosecute, is it not correct, is because of the testimony and demur by former director and former chief of patrol stating that that isn't the way that the code had been interpreted in the past and that is why they did not pursue the case, not because there was nothing found to be irregular?

MR. JOHNSTON: Now that you mention it, yes, you are correct. I believe that the former director and a former chief of patrol did get involved in that case, and there...

ASSEMBLYWOMAN ALLEN: And gave a demur, and because of that it weakened the case and the D.A. decided not to continue the prosecution.

UNIDENTIFIED SPEAKER: Mr. Condit, I just want to clarify that the District Attorney did not prosecute because the Fish and Game employees didn't do what they were supposed to do, is that what you're saying?

MR. JOHNSTON: No, I don't believe so. I believe Fish and Game employees did everything necessary but a former director and a former chief of patrol went to the court and testified that that's not the way that the law was meant to be enforced and therefore, based on that testimony and based on historic enforcement practices in that area, the District Attorney chose not to prosecute.

ASSEMBLYWOMAN ALLEN: I have some other questions in this area as it regards 3081 if I may.

CHAIRMAN CONDIT: Regarding what?

ASSEMBLYWOMAN ALLEN: 3081.

MR. BONTADELLI: Ms. Allen, may I ask, if I may just one moment, on that issue, if Mr. Sakai can describe the difference in the requirements for landing reports between pre- and post-3081? Because I'm not aware that there's a significant difference in the recordkeeping between those areas, but...

MR. SAKAI: Generally speaking, when an individual imports fish from another state or country, there are no receipting requirements so to speak. For specific species of fish such as sturgeon, there are some reporting requirements to notify the Department that that type of fish is being brought into the state, so essentially, to my knowledge, there has not been a specific general reporting requirement for bringing in imported fish into this state.

ASSEMBLYWOMAN ALLEN: The situation has been raised in the past prior to 3081, that is you were to bring in certain species of imported fish and thereafter they were processed, and there's where we're running into a problem, is in the fish markets, the processors, wholesalers, brokers, and after process they are indeed subject, or were indeed subject, to receipting in the past...

MR. SAKAI: That's correct.

ASSEMBLYWOMAN ALLEN: So if you have imported fish in a wholesaler, processor facility, and you have domestic fish it is now difficult, perhaps impossible, to identify which is imported. In other words, since there is no receipting, one could claim, "Well, I don't have..., I've got this as an imported fish. I don't have to have receipts now because the law has been changed." So it will be very difficult, literally perhaps impossible, and correct me if I'm wrong, to say to a fish lying side by side or to groups of fish lying side by side, indeed, you could say, "Well, no, this is imported fish." It would be nearly impossible to deny that that is indeed imported fish with no paper trail to follow it, and that was my point.

MR. SAKAI: Yes, essentially, without the paperwork it would be very difficult.

ASSEMBLYWOMAN ALLEN: And there is, as you stated, no paper required, and even now, there was paper required before.

CHAIRMAN COSTA: Ms. Allen, I've gone through some of this with you before, and been involved, but I think that we need to make it clear to both members of the committee here the plight that you're trying to make the distinction of in terms of the process involved on the paper trail between imported fish and the fish that are caught off waters of California, and processed, and the point you're trying to make so that members of the committee can understand. They haven't all been involved in it as much as you have.

ASSEMBLYWOMAN ALLEN: The question, basically, was for the purposes of the committee's understanding, the question was we're looking at 3081, and there were some changes made in the law under 3081 of how fish are tracked, how fish are taxed, and in this specific situation, and my question was, now under 3081 the law would be different regarding how you would track imported fish versus domestic fish, and the question was, how can you identify now imported fish from domestic fish? Domestic fish, for our purposes, as the Legislature and the law, are taxed. The imported fish now are not taxed, and there is no paperwork currently...

CHAIRMAN COSTA: And the point you're trying to make is because there's seemingly less scrutiny dealing with imported fish, there might be the temptation on the part of fish

processors to label everything as imported, or a majority of their processing as imported fish to get away from the paper trail and the potential taxes that might be collected under fish that are caught off the waters of California. Is that correct?

ASSEMBLYWOMAN ALLEN: That's correct.

CHAIRMAN COSTA: Mr. Peace.

ASSEMBLYMAN STEVE PEACE: I think we all understand that, but I think we'd like to know what's the alternative? Where are we heading here?

ASSEMBLYWOMAN ALLEN: Well, we're asking questions. I guess regarding 3081, is what I'm understanding.

ASSEMBLYMAN PEACE: But we know the answers to those questions. We know they're treated differently, and we know that someone can claim that it's imported when in fact it is not, and we know that that's a difficult problem of distinction. What I'd like to get to is some notion of, if you have an idea of a better way to do that I'd like to hear it, or if you think that that's a legislative idea or if you think the current means of enforcing the program is inadequate, if you have a different way of enforcing it, I'd like to hear it, or if you think that there's some purposeful effort not to enforce within the Department, I'd like to hear that. But let's go someplace.

ASSEMBLYWOMAN ALLEN: It's my understanding that what we're doing here is asking questions regarding 3081 and the difference and...

ASSEMBLYMAN PEACE: Fine, but I'd like the questions to lead to some conclusions.

ASSEMBLYWOMAN ALLEN: Well, it's my understanding we're investigating the Department. Is that correct?

CHAIRMAN COSTA: We are holding a hearing looking at the implementation of 3081 and seeing how well the Department is doing in terms of its implementation. So, I think Mr. Peace's question..., he wants to try to bring those..., I think those are valid questions.

ASSEMBLYWOMAN ALLEN: I think my question, basically, is a valid question, and I believe that if we have a situation, and we're going to be getting into enforcement very soon, of our fish laws, and 3081, as it compares to..., being able to enforce our current fish and game laws, as it relates to commercial fishing, is very difficult if you can't identify which fish are to be taxed...

ASSEMBLYMAN PEACE: My point is, can we do away with that distinction?

ASSEMBLYWOMAN ALLEN: Well, perhaps we could. Perhaps we could get a paper trail on imported fish so that there would be identifying capability by a warden if he were to walk into a fish market.

ASSEMBLYMAN PEACE: What are our limitations legally in terms of dealing with imported fish versus domestic fish. Are there any?

CHAIRMAN COSTA: Mr. Moger, would you like to comment on that?

MR. MOGER: Anytime that you deal with imported fish then you're dealing with products that are involved in interstate

commerce. We are prohibited by some limitations, but I can't answer categorically that you would always have a problem.

CHAIRMAN COSTA: What's the Department's opinion? Does the federal government preempt our ability to establish a paper trail on imported fish?

MR. JOHNSTON: I don't think the federal government particularly preempts our ability, but there is case law that talks about restraint of trade and impacting interstate commerce.

CHAIRMAN COSTA: Do your federal counterparts require a paper trail?

MR. JOHNSTON: They do not. Perhaps it would be useful to the committee if I could describe to you some of the things that really haven't changed since the passage of AB 3081 in our enforcement of these commercial fishing laws. We have always had a difficulty, let's put it that way, with a paper trail of any kind, be it our pink tickets or whatever the situation would be. What would happen is that our fish and game warden would go to a wholesale fish dealer in San Francisco and walk in and if he was licensed under the Fish and Game Code, the authority of the Fish and Game Code as a wholesale fish dealer and now they're called a fish business, they have a fish business license, the warden would walk in and ask to see his business books. You know, look at his records: "Gee, I notice by your regular business book, not necessarily pink tickets, that you imported 6,000 pounds of striped bass last year from the State of New York. Where did you get these striped bass, what was the genesis, where did they come from?" and the businesses were cooperative and able to produce

paperwork to show that they came from a commercial fishing operation in, say, the City of New York.

Nothing has really changed under AB 3081. Our investigators still have to go in there and make use of both the business records and the pink ticket records, and hopefully, if we've got a dealer that, say, deals in imported striped bass, which you can't take those legally in California, but they can be imported under some really strict guidelines that the Fish and Game Commission has established. So he goes in and he finds out that he's got a wholesale fish dealer that's imported 6,000 pounds of striped bass, and yet on his outgo side he's got 8,000 pounds that he sold to some restaurant or some retail outlet, well then we've got cause for a little bit of concern and we then call up our friends at the audit branch and we'll go in and do a complete audit of that gentleman's records and books and see if there are some discrepancies that would warrant some kind of court legal action. Nothing has really changed in AB 3081. There are just a few more people that are exempted from the pink tickets. They still need to keep the book records for IRS purposes.

CHAIRMAN COSTA: So you can't make any determination, or tell the committees at this time, that more people are attempting to classify fish under the imported category since the implementation of 3081 because it's more stringent or because we've cleared up some of the ambiguities that existed prior to the enactment of 3081.

MR. JOHNSTON: No, we can't make that kind of a determination.

ASSEMBLYWOMAN ALLEN: If I may continue on that line of questioning, Mr. Chairman.

CHAIRMAN COSTA: Mr. Peace, were you finished?

ASSEMBLYMAN PEACE: No, I think I interrupted, Ms. Allen, actually.

ASSEMBLYWOMAN ALLEN: Thank you, Mr. Peace.

CHAIRMAN COSTA: Ms. Allen, please go ahead.

ASSEMBLYWOMAN ALLEN: I have some questions.

CHAIRMAN COSTA: We need to, at some point, move over to the enforcement of commercial fishing laws. Go ahead, but I just wanted to reference that.

ASSEMBLYWOMAN ALLEN: If I may continue to ask a couple of questions on this. And as we get into enforcement I think it would be more appropriate to get into a little more depth on it, but the thing that concerns me is you're saying, making a statement now, that it is not a problem, is that correct? You're not, wait, it's not a problem, is this your response? You're not finding much difficulty, I think I'm recording you now, much difficulty in identifying domestic fish versus imported fish? Is that correct?

MR. JOHNSTON: No, what I said is that it really hasn't changed much with the passage of AB 3081. The enforcement officer always has that problem. We had that problem before AB 3081 and we still have that problem of walking into the fish market and finding salmon lying side by side and determining

where that came from, and that's where we get into the books and if we find discrepancies, we're trying to train our officers, and we've got a couple, we've devoted one of our teams of our special operations unit to train them to spot those kinds of things so that..., and then we work very closely with our audit branch, we've had a 300% increase in the number of auditors we have in this department, and then we go look at those kinds of things that we alert. It's a difficult situation, before...

ASSEMBLYWOMAN ALLEN: Maybe this question would help a little more, then, to get off that point. I think we've established it's difficult. I think what specific changes, if any, would you...., should be made in the Department's administrative procedures, or in the codes, to assist the Department in the enforcement of Fish and Game laws as it pertains to this. I think these are the kinds of things that..., if it is difficult to identify there certainly should be some manner, and I think hopefully that you would be able to recommend to us, rather me to you, perhaps some kind of change that could help wardens in the field to more quickly identify and be able to determine which fish would be taxable, which fish would be imported. I think that would be one question. The other question is, well, it pertains to licenses. So if you'd answer that one first.

MR. JOHNSTON: The first question is, and it would take some careful research by the Department's legal staff and by the Legislature's legal staff, but some method of maybe a tagging program or something like that to identify this fish that comes

in from out of state, but it would have to be a method whereby we wouldn't run afoul of federal court decisions and wouldn't be interfering with interstate commerce and those kinds of things, so it would have to be something that would be very carefully looked at to make sure that we wouldn't have the federal government step in and say, "Wait a minute, you're interfering with interstate commerce here." But some kind of a tagging method or some kind of identification method. We've got that now on our sport caught salmon versus commercial caught salmon. The sportsmen clip the tail off the top of the tail off, and if the warden sees that fish in the market he goes, "Wait a minute. This is a sport caught fish." It doesn't take any looking at books or any of that kind of thing.

ASSEMBLYWOMAN ALLEN: So something of that nature would be of help to the Department.

MR. JOHNSTON: That's right and it would, of course it would have to be a legislative remedy and like I said it would have to be very carefully thought out with the case law really reviewed in this area to make sure that we weren't running afoul of those interstate commerce...

ASSEMBLYWOMAN ALLEN: Absolutely.

CHAIRMAN COSTA: All right. Do you have any other questions?

ASSEMBLYWOMAN ALLEN: Yeah. AB 3081 dealt with licensing, and the licensing of commercial fishermen based on the Auditor General's report, we've had some difficulty...

CHAIRMAN COSTA: We're going to have the Auditor General testify right after these folks.

ASSEMBLYWOMAN ALLEN: May I continue, Mr. Costa?

CHAIRMAN COSTA: No, I know, but I just didn't know if you understood that.

ASSEMBLYWOMAN ALLEN: Yes. Based on the Auditor General's report there's been difficulty in the past..., they've found that a lot of commercial fishermen are not licensed and 3081 dealt mostly with redesigning the licensing procedures and the manner in which commercial fishermen and processors, wholesalers, are licensed. I would like to ask you what is your estimate of the percentage of commercial fishermen or others involved in commercial fish operations that are currently unlicensed as required by law. I'm asking a lot of questions preparing for this hearing. I understand that there are a lot of commercial fishermen who have been unlicensed in the past, and under this law, that it is a better step forward, could you give me a little report on that?

MR. JOHNSTON: To estimate the number of commercial fishermen that are unlicensed out there is a difficult thing to do, because obviously if we're contacting them we'd know it. We do write commercial fishing violations and we do write these violations for unlicensed businesses and those kinds of things. I think that the current law has helped us out in it. Ab 3081, I think, clarified a lot of it and we can identify those dealers that need to be licensed.

ASSEMBLYWOMAN ALLEN: Do you have more licensed today than you had before 3081? Maybe that would be a more appropriate question. You'd certainly know that.

MR. SAKAI: Excuse me, we're pulling together some numbers this morning. I think we may have them available now.

MR. JOHNSTON: I think the key point is, at least from the Department's standpoint, is that 3081 clarified a lot of these wholesale fish dealers, and now I think that the warden out in the field is able to understand it. In addition, we've dedicated one of our special enforcement teams to just that, commercial fishing licenses, and the Department's placed a new emphasis on the licensing of fish dealers. We've gone out to all of our regions, not just the coast, but in South Lake Tahoe, Bakersfield, Redding, and Red Bluff and some of these areas where we traditionally haven't gone. I had a warden tell me the other day that he had licensed 6,000..., he had sold \$6,000 worth of licenses in a week because we'd finally pointed out to him that this is a major problem.

ASSEMBLYWOMAN ALLEN: And it's even more important, is this correct? It's more important to have them licensed. You cannot tax someone you can't track to see if they're not licensed, you can't have them apply the tax toward their operations. So having a fisherman licensed would generate more revenue because they are indeed then tracked and charged the appropriate taxes that they should be paying.

MR. JOHNSTON: That's correct.

ASSEMBLYWOMAN ALLEN: And there has been an increase then in licensure since this law has gone into effect, I guess that's the question.

MR. JOHNSTON: Well, that may be a false figure, and I really can't provide you with the figures right off the top of my head. Perhaps they can give them to you in a second, but we had both ways. What we had when 3081 was passed was that some of the fees were raised significantly. We had people drop out of the business, but because of the clarification of 3081 our wardens were better able to enforce it and go into a commercial establishment and ask him if he ever did activity 1, 2, 3, or 4, and if they were doing one of these they needed to be licensed, so we may not have had a net gain in licenses, but we've got a better ability to go out there and enforce the licensing laws. Our warden, 3081 makes it clear to our wardens what is needed out there and as a result of that we've taken up an aggressive new enforcement program and have required our people to go out and make these license contacts.

Another story and it's indicative of the problem that we've had in the past is one of my special operations wardens tells me that he contacted a wholesale fish dealer that had been in business for 45 years and had never been licensed. Well, now we've got him licensed.

ASSEMBLYWOMAN ALLEN: And that's the increased effort on the part of the Department and on the part of your special operations team that is out there making that concerted effort to check for licensure, is that correct?

MR. JOHNSTON: That's correct.

ASSEMBLYWOMAN ALLEN: Thank you.

CHAIRMAN COSTA: All right, Mr. Hauser?

ASSEMBLYMAN HAUSER: Mr. Chairman, while we're on this issue of unlicensed..., let's talk about..., can you give me a description of a typical unlicensed commercial fisherman? It's not a drag boat. We're not talking about a salmon trawler. What are we talking about? Are we talking about somebody that's retired, has got a 14-foot boat and decided to get a commercial license because they can get more salmon.

MR. JOHNSTON: I don't think there is such a thing as a typical unlicensed commercial fisherman. I think you've described one of them. Another one that will get..., an unlicensed commercial fisherman, we're talking about, is we'll get a crew member that forgets to buy a license. You know, he's in violation of the law and our wardens will catch him out there and arrest him, then we'll get the person that intentionally does it. He'll go out, and he rock cod fishes. He may do it from a party boat, and take over limits of his sport limit and take them down and sell them, so he's commercially fishing and he's not licensed. Then we have the case where we've got a long range tuna boat in Southern California that goes out and comes back and lands fish, our commercial licensing law requires him to be licensed because they're going to land fish or assist in commercial fishing in any way. The cook on board one of these long range tuna boats, because he's assisting in commercial fishing operations, would be required to be licensed, so there's

whole variety of typical no license situations in the commercial industry.

ASSEMBLYMAN HAUSER: Thank you.

CHAIRMAN COSTA: It's kind of like people that drive cars without a license, is that true?

MR. JOHNSTON: Except they're making dollars and the taxes, etc.

ASSEMBLYWOMAN ALLEN: Could you estimate the annual combined wholesale and retail market value of fish and fish products which are handled by unlicensed operations in California? And what percentage of this figure would come from sport caught fish? Perhaps your auditor could...

MR. JOHNSTON: I don't have those figures before me. I remember when the Senate Office of Research was doing some licensing audit, and please, this figure's about two years old so I'm not sure, I believe they estimated \$60 million a year economic value.

CHAIRMAN COSTA: Taken illegally?

MR. JOHNSTON: Yes, without benefit of license or...

CHAIRMAN COSTA: That was combined for both the sports and the commercial?

MR. JOHNSTON: I believe that was the number.

CHAIRMAN COSTA: That was combined, both sports and commercial?

MR. JOHNSTON: Yeah, I believe it was.

CHAIRMAN COSTA: Okay.

ASSEMBLYWOMAN ALLEN: That would have a tremendous economic impact, then, not only on the resource in terms of abundance, but also on the state as a whole for purposes of taxation and management of the resource.

CHAIRMAN COSTA: What they need is more wardens to supervise the job, right?

ASSEMBLYWOMAN ALLEN: I think that's part of the problem, definitely. I think they are under not enough manpower, and perhaps as we get into it today we'll find, perhaps even more problems that contribute to that.

CHAIRMAN COSTA: Or we need to convince this administration, and we have the chairman of the budget subcommittee here that more wardens would help deal with that.

ASSEMBLYWOMAN ALLEN: I think it would help if the Department would put forth a proposal to the Legislature. They do need more manpower, in terms of legislation to draw attention to the fact that you are understaffed.

CHAIRMAN COSTA: All right, moving right along. Let's try to speed things up here. We still have an ambitious schedule this morning to attend. We have Kurt Sjoberg, Chief Deputy Auditor General. You are appearing for Mr. Sjoberg?

MR. PHILLIP JELICICH: Yes.

CHAIRMAN COSTA: And your name for the record?

MR. JELICICH: My name is Phillip Jelichich. I'm an audit manager at the Office of the Auditor General.

CHAIRMAN COSTA: We would like to swear you in, Mr. Jelichich. Mr. Moger?

MR. MOGER: Would you please identify yourself for the record?

MR. JELICICH: Phillip Jelicich, Audit Manager, Office of the Auditor General.

MR. MOGER: Would you raise your right hand, please? Do you solemnly swear that the testimony that you shall give to this committee shall be the truth, the whole truth and nothing but the truth?

MR. JELICICH: I do.

MR. MOGER: Would you please state your full name?

MR. JELICICH: Phillip Jelicich.

MR. MOGER: Excuse me, Phillip. Would you spell your last name for me, please?

MR. JELICICH: J-E-L-I-C-I-C-H.

MR. MOGER: Thank you.

CHAIRMAN COSTA: We know that you don't yet have an audit complete on AB 3081, so for members of the committees present, could you please indicate the audit that you did in 1987, based much of the subject area that we've discussed that led up to some of the events of the passage of AB 3081 and, for the members of the committees, give us your own perceptions as to whether or not you think it's possible for us to make a determination or provide legislation that could be enacted into law that would give us the ability to determine whether or not there is a paper trail that could be established on imported fisheries versus those that are taken within California to determine whether or not there is an attempt by some processors

to circumvent the law by indicating that these fish that they are processing are imported rather than having to be subject to the laws under the normal reporting procedures?

MR. JELICICH: Okay.

CHAIRMAN COSTA: As an auditor, you ought to be able to tell us how to do that very simply, right?

MR. JELICICH: Not quite that simply, but let me answer your first question first. In November of 1985, the Office of the Auditor General issued a report that raised the shrimp tax issue and that of the landing tax or privilege tax issue. AB 3081 clarified those two sections of the Code which were previously, as you discussed, slightly ambiguous. In 1987, we performed an audit to determine compliance with AB 2436, which is going to be discussed this afternoon. As you indicated, we have not, and there is not specific requirement that we do an audit in compliance with AB 3081, so it is not really something that is presently on our agenda.

CHAIRMAN COSTA: I suspect it may be.

MR. JELICICH: That's certainly appropriate. So that's why we happen to be here this morning.

Now, to your next question about the paper trail for the processors of the imported and domestically caught fish. We haven't specifically looked at that.

CHAIRMAN COSTA: Did you do the audit on any of the commercial taxes that have been requested, you yourself, personally? Are you familiar? Do you have the expertise with it?

MR. JELICICH: I have not been on any audits where we went out to the fish dealers, and so I've never really been in that environment and for that reason really would rather not comment on that topic.

CHAIRMAN COSTA: You don't sound like you can provide us much help. Any questions or comments by the members of the committee?

ASSEMBLYWOMAN ALLEN: I would just say that it would be correct that the one that we should really question regarding the audit of the commercial fish dealers would be John Blakely and the task force that did that audit, especially as it relates to the shrimp dealers, and hopefully Mr. Blakely is here this morning so that we could ask him more specific questions as to the internal audit of the shrimp dealers, and I would hope we would call him up to do that, but the audit on 2436..., you did get into some of that, though you may not have gone to the dealers?

MR. JELICICH: That's true.

ASSEMBLYWOMAN ALLEN: You did get into the scope of the audit, did cover part of the commercial activities as it related to the part of the law that you so generously called ambiguous...

CHAIRMAN COSTA: Ms. Allen, question for my information, or for this committee. Is that the audit that you requested Mr. Condit and me to request from the Department, that the Department indicated to us was subject of litigation and they could not therefore provide?

ASSEMBLYWOMAN ALLEN: That audit they provided you a summary of did not provide the internal audit, as they did not provide other documents that were requested as well under the threat of litigation, which was a lawsuit that was brought by Ken Kukuda, not a lawsuit brought by shrimp dealers.

That particular lawsuit was relating to the fact that the commercial fish industry, certain segments of it, namely processors, wholesalers, receivers, etc., were not paying commercial fish privilege taxes as required by law. That particular lawsuit became somewhat moot when the Legislature sought to forgive those taxes rather than to enforce the law, and basically, that lawsuit now, all that remains is the shrimp dealer aspect of it, and Mr. Kukuda is here to testify also, so perhaps we could find out the status of that "litigation" as it pertains to not providing the internal audit report.

CHAIRMAN COSTA: Okay. I just wanted to know what you were referencing.

Any other questions by members of the committees of this witness? All right, thank you very much.

The next witness we have is Mr. Ken Kukuda. We have one other witness that wants to testify on this subject matter, is that correct? On AB 3081. Okay.

Mr. Moger, will you please perform your duty?

MR. MOGER: Would you please identify yourself for the record.

MR. KENNETH J. KUKUDA: Kenneth J. Kukuda.

MR. MOGER: Mr. Kukuda, would you raise your right hand. Do you solemnly swear and affirm that the testimony you are about to give these committees shall be the truth, the whole truth, and nothing but the truth?

MR. KUKUDA: I do.

MR. MOGER: Would you please state your full name for the record?

MR. KUKUDA: My name is Kenneth J. Kukuda.

I've prepared for the members of this committee a rather elaborate package. I will not try to repeat it or go through all of it, but it has a number of attachments which I'll refer to briefly. First of all, many of you may know that I am the publisher, editor, of South Coast Sport Fishing Magazine, and this magazine covers salt water fishing throughout Southern California. I'm also the author and proponent of what is the first and current initiative that would ban the use of gill nets by commercial fishermen in California waters.

CHAIRMAN COSTA: This gill net initiative that you proposed last year would have set the ban at a 200 mile limit?

MR. KUKUDA: Seventy-five miles.

CHAIRMAN COSTA: Seventy-five miles?

MR. KUKUDA: Yes.

CHAIRMAN COSTA: And the one you're working on this year is at three miles?

MR. KUKUDA: Three miles.

Let me clarify, perhaps, for the committee some misunderstanding regarding litigation that I brought. When I got

involved with the Department of Fish and Game, it was over a licensing issue, an increase to the sportsman of nearly 30% in licensing. I soon discovered that, under the claim of a budget deficit, that the Department was not collecting appropriate taxes as mandated by law. Subsequently, in a meeting in my office with Jack Parnell, he assured me that they were working on the problem. The committee that you referred to, on December 4th, Mr. Parnell indicated that he would address that issue at that committee. After reviewing tapes of that committee, I found that I'd heard the same old excuses, so on December 11, 1985, I sought a writ of mandate which was granted and that's available in your package, and I'll read one particular line on there.

"Now, therefore, you are commanded to institute collection proceedings under California Fish and Game Code Section 8045, and the alternative to show cause before this court at the courtroom (and the address) why you have not done so."

Basically, the hearing was set for April 18, 1986. During that particular time I've had information from the Attorney General's Office, we were waiting for a ruling, in the hopes of simplifying this particular matter. The matter was continued and actually the hearing was taken off calendar. Subsequently, 3081 was introduced by Assemblyman Felando. Actually the provision that applies to this particular litigation was added in the last minutes of the session in 1986. And it does make some points moot, although as I have indicated in my testimony we will be filing very shortly for a new hearing date and we will challenge the constitutionality of the gift of public funds.

What still remains, though, without a doubt of any question...

CHAIRMAN COSTA: Which gift of public funds?

MR. KUKUDA: The 3081. The forgiveness of the back taxes.

CHAIRMAN COSTA: Okay.

MR. KUKUDA: That will still be the subject of that litigation. Without getting into the particular point, let's look at the shrimp dealers. That's still very clear, that there are funds owing. One question you did not address to the auditor from the Department of Fish and Game is, what has happened to that collection effort? There still are shrimp dealers who owe taxes, and it's my understanding as of today that there has been one meeting that happened oh, I would imagine, back in August of 1986 in an effort to resolve that. But I know of no further effort by the Department to either collect those taxes, institute any proceedings to collect them, by the Department of the Attorney General's Office, and that remains today. And I find that insulting inasmuch as those taxes are clearly owed.

Second of all...

CHAIRMAN COSTA: How much do you estimate those taxes to be?

MR. KUKUDA: I have no idea what the estimate is, because I do not have all the records. I am...

ASSEMBLYWOMAN ALLEN: Would the internal audit help us in that regard, to know how much is still owed, that I have not been able to receive from the Department?

MR. KUKUDA: Obviously it would. We get into legal problems, I suppose, of an individual knowing what another taxpayer is going to pay in taxes. But let's also clarify 3081 itself, where we have this fish privilege tax. I would ask you all to turn to Attachment 2, Page 2, and it's very clear that we misunderstand that this is a misuse of the word "privilege tax". That tax is imposed upon the right to exercise a privilege and a payment of such tax is made a condition to exercise the privilege of dealing in or processing fresh or frozen fish in this state. It's not like a tax, where we talk about a sales tax, or an income tax, and unfortunately the word "privilege"..., it's like a business tax. It probably was mislabeled and I think a lot of people in both the Senate and the Assembly were misled by the word tax. It's like a person doing business. There was a great deal of emphasis placed upon multiple taxation, when, in reality, we're talking about anywhere from a tenth of a cent per pound to perhaps one and one half cents per pound for fish. I don't care if the fish are handled five times. That's seven and a half cents per pound. If you haven't gone to the store recently, the least expensive fish I've been able to find is \$4.99 a pound. I doubt \$5.08 or \$5.09 is really going to affect the price of fish that much, but that was a particular emphasis by the commercial industry.

CHAIRMAN COSTA: That was part of the ambiguity, and one of the reasons for 3081, wasn't that correct?

MR. KUKUDA: Well, no, I disagree, because I would have turned to Attachments one through five, these are all attachments

prepared by the Department, dated as far back as 1971, but primarily during 1984. Everyone of those start off with a statement, and I'll just read a couple of them, that have no question. "I have completed an examination of those records necessary to establish the applicable fish privilege tax." Another statement starts off that "there is no doubt that this is clear." Ambiguity means we have a decision on how, what it means. What has happened here is that the Department simply didn't do their job, so they said this is ambiguous. Their own task force reports indicate "we should start collecting these taxes" and they didn't do so. So then they come over to you ladies and gentlemen and say it's ambiguous. It's not ambiguous. Look at those task force reports.

ASSEMBLYWOMAN ALLEN: Did the Attorney General's opinion say it was ambiguous, or did it say it was specifically clear?

MR. KUKUDA: It was clear from the Attorney General's opinion, which was an informal opinion by Mr. Wonderlich, and subsequently the formal opinion issued, did not have any problem with ambiguity. It had a problem with the Department not doing the job. In fact, the testimony up here where the Department seemed to find delight where they'd found somebody who, for forty-five years, didn't have a license. I find that an embarrassment. That indicates the kind of job the Department hasn't been doing. And so, now, when they don't do their job, they collect taxes, they call it ambiguous. I understood what the law was back in 1971, and five task force reports, those five attachments, clearly indicate that the people in the Department

knew, but when they took it up to management, management felt it was ambiguous. And I disagree with that point. That is not a definition of ambiguity.

ASSEMBLYMAN HAUSER: Mr. Chairman, my understanding was that this hearing was called to discuss the implementation of existing law, AB 3081. Are we going to discuss AB 3081 and how it's being implemented, or are we trying to replot old ground that this Legislature has, at great length, debated and already covered?

CHAIRMAN COSTA: We're on 3081. Mr. Kukuda?

MR. KUKUDA: Yes, well 3081 is still subject to litigation and it's being questioned, but I'll go on and I don't believe have any other statements.

CHAIRMAN COSTA: Well, as I indicated at the outset, we are going to hold hearings in January. If information comes up during this hearing that we think needs to be proceeded on further, I'm willing to provide that forum in January, but...

ASSEMBLYWOMAN ALLEN: Mr. Costa?

CHAIRMAN COSTA: Would you please hold a second, Ms. Allen? If you could speak as Mr. Hauser has indicated, on your concerns on 3081 and how the Department's implementing it, or how they're not implementing it, and what you think needs to be done.

Ms. Allen, you have a comment or a question?

ASSEMBLYWOMAN ALLEN: I have a question, because at the time that these hearings were being formulated, you assured me that I could get into areas of concern regarding commercial fishing on October 27, and accommodation of the fact that you

could not hold the hearings at any other point in time, and that today would be a day we could get into commercial fishing problems and enforcement problems, and you're saying now that we're only going to cover what is currently in 3081, not even the situations that surround it...

CHAIRMAN COSTA: Ms. Allen, if you'll refer to the agenda, you'll look..., if you'll look at the agenda, we have implementation of 3081. We have three witnesses there. We have one other that has to testify. Following that, we deal with the enforcement of commercial fishing laws and regulations. If Mr. Kukuda has a question or comment that relates to that aspect, we'll deal with it at that time. I'm not going to (inaudible) any time you have a whim to get into some other subject area. We'll never complete the hearing.

ASSEMBLYWOMAN ALLEN: Is the hearing to look at commercial fishing enforcement problems?

CHAIRMAN COSTA: The hearing is to deal with a host of areas that are addressed on your agenda. If you have problem with the commercial fishing laws and regulations, I think that would be appropriately addressed at that section. We're not there yet.

ASSEMBLYWOMAN ALLEN: And as we got into the internal audit...

CHAIRMAN COSTA: Mr. Hauser pointed to a comment. He said are we finished with the testimony on 3081. I'm trying to finish the testimony on 3081.

ASSEMBLYWOMAN ALLEN: I guess, as it relates to the current witness, then...

CHAIRMAN COSTA: Yes?

ASSEMBLYWOMAN ALLEN: We have previously asked a question regarding the internal audit, and we asked it of the Auditor General, as it related to..., and the mention was it was litigation that could not provide us with that particular report. Again, the internal audit dealt with the shrimp dealer situation, the fact that the Department still has not collected that money and this audit was done in early 1985, and those monies have still not gone forward or been collected. Mr. Kukuda's litigation is the point in question regarding the shrimp dealer case, and I think it is appropriate that we ask questions regarding..., first of all, we have to know indeed, how much can we pursue with the internal audit that we have never been provided with, and I think this testimony that you're saying that it is not appropriate at this time or it would be appropriate under the other category on the agenda.

CHAIRMAN COSTA: I, Mr. Hauser asked a question of Mr. Kukuda as to whether or not his aspects of the implementation of 3081, and I thought we were getting a bit off track. If he has other comments as it relates to the next section that we'll be following, he certainly has the privilege to testify on that. If he can relate to the committee how the comments on the shrimp processors affects 3081 and make that point clear to the committee, I'm willing to listen.

ASSEMBLYWOMAN ALLEN: I guess that's my question to you. Has he been called forward at the wrong time. If I may finish my question, would he be allowed, then, to testify under the appropriate..., in other words, my question to you is, will there be a point in time we can get into the enforcement aspects of commercial Fish and Game laws?

CHAIRMAN COSTA: Do you see the agenda?

ASSEMBLYWOMAN ALLEN: Yes.

CHAIRMAN COSTA: It's next, if we can finish 3081.

ASSEMBLYWOMAN ALLEN: So then we should ask him to come back at that time, is that correct?

CHAIRMAN COSTA: Unless he has nothing else to say about 3081.

MR. KUKUDA: I have only one question...

CHAIRMAN CONDIT: I have a clarification, Mr. Chairman, if I may. On 3081, your reference to back taxes, are you making that as a part of 3081 did not deal with that, or was ambiguous when it came to that subject matter?

MR. KUKUDA: No. AB 3081 applies..., and I'll just make one comment with respect to Mr. Hauser. I would ask the Department why they haven't implemented 3081. If we're talking about implementation of 3081, where is the money and what efforts have they done to collect the taxes of the shrimp dealers? How hard is that for them to respond to? Because that was subject to the litigation brought in 1985. There was a meeting back in 1986, a meeting with a couple of the shrimp dealers who claim that these taxes are owed.

CHAIRMAN COSTA: Then your statement is that 3081 requires them to go back and collect those...

MR. KUKUDA: It never forgave that portion of those taxes, and with respect to that, what have they done about that?

CHAIRMAN COSTA: I understand, and I think that's relevant, if..., you know, why they didn't. AB 3081 did not forgive anyone.

CHAIRMAN CONDIT: That's correct, and with respect to those dealers, and I'm simply asking what have they done to date? That's the question you have to ask them. I'm involved in litigation. They've never come forward, and that would be easy for the Department to come forward and seek a dismissal and tell the court, "Your Honor, look, we've collected these taxes," or "Your Honor, we're not obligated to collect these taxes because of law." They've done neither one. They're sitting there under the same excuses of noncollection.

CHAIRMAN CONDIT: Okay, I think you've answered the question, and we'll put a question mark and we've got to ask a response from them.

CHAIRMAN COSTA: And as we wind up on 3081, we'll ask the Department to come back and respond to those questions.

MR. KUKUDA: That's what I would love the committee to do. I don't have any other comments because they're all in writing for everyone to pursue at their leisure, and I appreciate the opportunity. If you have any questions, I will address them.

CHAIRMAN COSTA: Do you have any advice to the members of the committees on how we might do a better job of ensuring the

Department implements the current set of statutes on the books, and I know you've got a lot of concerns and you've substantiated those concerns with litigation as to their past practices. How about their present day activities in attempting to get necessary enforcement both under sports and commercial fishing interests?

MR. KUKUDA: Well, the difficulty in that enforcement all comes down to money, and they claim a million dollar increase with 3081, and I...

CHAIRMAN COSTA: Which is insufficient as far as I can determine.

MR. KUKUDA: Yes, as far as I'm concerned, it's interesting. When they use the word substantial, I would ask every member of the committee to ask them what they mean by substantial. Usually, for example, in the commercial fishing industry, the license fee in ten years went from \$40 to \$41. One dollar is not in my estimation substantial. Certainly the sportsmen of this state went from \$13.75 to \$18, a 31% increase.

CHAIRMAN COSTA: So you're saying the commercial fishing licenses aren't high enough?

MR. KUKUDA: Not only aren't the licenses high enough, but they don't contribute enough to the operation of the Department, and they have some funny way to account for this. I'd like to put it on the table. We should all be able to understand it. I'd like to address the Department. When money comes in where does it go? You literally have to hire an auditor from where it's expended, because...

CHAIRMAN COSTA: That accounting process is..., when I questioned the director earlier, seems to leave a lot to be desired in terms of their sub funds and general account.

MR. KUKUDA: Absolutely, and the importance and the recommendation I would make is that the Department should be one department since it's funded primarily by the people who use that department, that is, the sportsmen and the commercial, who should have a very clear budget presented to us. No sportsman would mind paying the money if he knew where it was going, but the uproar is not only have our license fees increased, but the commercial industry doesn't seem to be paying their fair share.

CHAIRMAN COSTA: Because you feel the funds are commingled?

MR. KUKUDA: Well, not commingled, but not accounted for. I don't care whether it's commingled, because Mr. Bontadelli is going to say the account form. Let's see that accounting in sort of a simple accounting process. It's not available.

CHAIRMAN COSTA: One final question, then Mr. Condit has a question or comments. As to the implementation of 3081, do you believe that there is a serious effort being made out there by some to circumvent 3081 through the use of claiming imported fish as opposed to fish that would normally have to be accounted for under the aspects of 3081?

MR. KUKUDA: I can't speak for the efforts, but I can speak that the opportunity is there. And that's by the testimony of the Department where there is not a way for them to really

account, and I find it amusing that recordkeeping does not interfere, any kind of required recordkeeping does not interfere with any federal law. Certainly, every businessman out there has to keep records for the state as well as for the federal government. There should be a very simple process. I have a hard time as both a businessman and a sportsman to listen to the Department claim that they have problems. They must implement systems. That's the whole problem with the Department. They don't implement systems that will correct the problem.

CHAIRMAN COSTA: Could you make some recommendations at a later time to the committee, maybe in January when we hold the other hearing?

MR. KUKUDA: I certainly can. I've made that offer available to the former director regarding licensing problems and implementation, setting up systems that would correct a lot of the problems in the Department.

CHAIRMAN COSTA: I'd like to see them. Mr. Condit, a question or comment?

CHAIRMAN CONDIT: Yes, in your opinion, you stated that the commercial fishing licenses are not high enough. They're not paying their shares. What is...?

MR. KUKUDA: Yes, I don't believe that if we want to balance the use of the resource that a \$41 annual license fee is a significant amount of money necessary to police and run the commercial industry.

CHAIRMAN CONDIT: I asked Mr. Bontadelli, and one of his Department personnel earlier, if they had any comparison on other

coastal states. Do you know what they charge in other coastal states?

MR. KUKUDA: Significantly higher. I've done some studies in Alaska, and some of the permits in Alaska go for \$15,000 to \$50,000 for one day of fishing. Obviously, fishing is very good. Alaska would be a good example for this state to follow because they treat their resources with care and concern that they are indeed precious. They're not abused. There's such a fear in Alaska that if the Alaskan enforcement plane flies over, they'll pull the permit and pull this person's license if they're incorrect. They have the..., the commercial industry has a great deal of respect for the enforcement of laws in that state. Unfortunately, in California, neither the sportsman nor the commercial industry have much fear of enforcement because it's literally nonexistent. There's a sample, I guess, of one of the surveys that has recently been made public as a result of litigation by the San Francisco Chronicle, was an individual warden in Monterey on a skiff dragging a line with a sinker, is how he determines if there are illegal gill nets. I don't consider that much of an enforcement procedure, but on the other hand we're told the budget's got a surplus. If we raise the fees and get the proper enforcement and the proper levels where they should be, our resources will be saved.

CHAIRMAN CONDIT: So the answer that you gave me is that other coastal states are quite higher than California when it comes to commercial fishing licenses?

MR. KUKUDA: Yes, that is readily available to the Department from the Sport Fishing Institute. All they have to do is call them up.

CHAIRMAN CONDIT: I don't understand why they don't know that and you do. Do you know whether, in other states, when the fish changes hands from dealer to dealer, do they tax that? Are you aware of that?

MR. KUKUDA: No. California has one of the more sophisticated systems of raising revenue, and it's also the highest in the land, but we do import a lot of fish and it's handled, because of our coastal location and the fact that we have 24 million fish eaters, you can't compare us to Iowa and a lot of the other states that are out there that have such small numbers, and a different type of fishing.

CHAIRMAN COSTA: Ms. Allen, for a question or a comment?

ASSEMBLYWOMAN ALLEN: Yes, my question would be of you, Mr. Chair, and basically, that is, some of the areas that were gotten into at this point in time, and I agree were off of 3081, but some of the areas that were covered regarding cost, how do you say what does a commercial fisherman or what does a sportsman owe in terms of Section 711 of the Fish and Game Code, which simply is "users shall pay for the cost of the management of their program." The cost accumulation reports, and I have a copy of it here, is something that I think needs to be gone into. I'm going to ask you at what point in time would that be appropriate? you cannot separate out the fact of the recordkeeping and the fact of how you...,

CHAIRMAN COSTA: That's the next item on the agenda, Ms. Allen.

ASSEMBLYWOMAN ALLEN: All right, because there's no way to separate it out. It doesn't say...

CHAIRMAN COSTA: That's the next item on the agenda. It says "Enforcement of Commercial Fishing Laws and Regulations."

ASSEMBLYWOMAN ALLEN: That gets into fiscal, then, Mr. Costa?

CHAIRMAN COSTA: Yes.

ASSEMBLYWOMAN ALLEN: So we can put fiscal under that category. That would be my question. Thank you.

CHAIRMAN COSTA: All right. Do you have any other comments? Do the other members of the committee have any questions?

MR. KUKUDA: Thank you.

CHAIRMAN COSTA: All right. Please stay around. We may have further questions under the next section, or in the afternoon as well. All right, we had one witness that signed up that indicated that they wanted to testify on this area, 3081. Is that correct? Mr. Mario Alioto, Chairman of the Board of the Seafood Institute. You want to talk on 3081, and not the next section.

MR. MARIO ALIOTO: Actually, I wanted to clarify Mr...

CHAIRMAN COSTA: Wait a minute, we want to swear you in first. I just want to make it..., please, Mr. Moger.

MR. MOGER: Mr. Alioto, would you raise your right hand?

Do you solemnly swear or affirm that the testimony you are about to give before this committee shall be the truth, the whole truth, and nothing but the truth?

MR. ALIOTO: I do.

MR. MOGER: Would you state your full name, please?

MR. ALIOTO: Mario J. Alioto, Chairman of the Board, California Seafood Institute, Executive Vice President, Washington Fish and Oyster Company of California.

CHAIRMAN COSTA: Your comments are on reference...?

MR. ALIOTO: Yes, Ms. Allen raised a question as far as a clear paper trail, i.e., imported fish, and I would like to basically...

CHAIRMAN COSTA: Many members of the committee asked that question.

MR. ALIOTO: First, I would like for this committee and for those in attendance, talk about one specie, and let's clarify before we begin, the word "import." We import...

CHAIRMAN COSTA: As a processor you handle both?

MR. ALIOTO: That's correct. We import from the state of Oregon, and we are not a processor, we are an importer, broker, and we also import from foreign countries. To clarify, salmon, when you buy salmon from Eureka, that receiver paid a landing tax. When we import salmon from the states of Oregon, Washington, they pay a landing tax. When we import salmon from Chile, we do not pay a landing tax, but there are taxes imposed by the federal government.

Now, as far as a clear paper trail, in Eureka we have an invoice, an airway bill, and/or a truck bill of lading. The same thing goes for the state of Oregon. When you import salmon from Chile, you must have the product cleared by Customs, you must have the product cleared by the FDA, plus you have all the necessary documentation, letters of credit, bank TT's, pro forma invoices, so there is a clear paper trail.

Now, when we sell that product, and we sell this product nationwide, and again, we are talking about salmon, if, in fact, we were selling just 10% of that salmon into the state of California and that salmon was commingled with other salmon that were brought in from these other states, that wholesaler could distinguish with a clear paper trail what, and in pounds, if he bought 300 pounds from each, identify where that product came in from. So I hope this clarified that question.

CHAIRMAN COSTA: So you're saying that the Department, their auditors, that there is sufficient paper trail on your imported fish to do an audit to determine whether or not there is an attempt to circumvent the law under 3081, as to declaring fish imported when actually they were caught off the California coast.

MR. ALIOTO: That is right. Even..., and I don't know of the situation that Ms. Allen brought up, but if in fact a dealer, a processor, bought product from Mexico, he would have to have it cleared by either Customs, yes, by Customs, U.S. Customs, and would be cleared by the FDA.

ASSEMBLYWOMAN ALLEN: If I may ask him a question about that paper trail.

CHAIRMAN COSTA: Ms. Allen, question or comment?

ASSEMBLYWOMAN ALLEN: As import, you're an importer, so as you import, so you would have the bill of lading, is that correct, for the trucking, is that correct?

MR. ALIOTO: Yes.

ASSEMBLYWOMAN ALLEN: You have a bill of lading for that particular load of fish. What other paperwork would you have?

MR. ALIOTO: Well, we would have, if we were an importer, now, from overseas, we would have a pro forma invoice, a commercial invoice, a pro forma invoice showing the goods that were shipped, and if we're talking salmon, if it were broken down into different sizes of salmon, what percentages of the load we had purchased. We normally buy..., when we buy salmon out of Chile, we bring in, we charter a full aircraft, and that's 80,000 pounds, so we would have a Department of Sanitation or some document to show the health standards, and in this case these are pond grown salmon out of Chile, plus that other documentation would be our letter of credit or our bank TT. A bank TT is a telegraphic transfer of funds from the buyer to the consignee. This is all part of the documentation. Obviously, they're not going to ship goods unless they get paid. Then, we would have a Customs freight forwarded clear those goods through Customs, and before we can proceed, and we're talking about a perishable item, we would have an FDA green ticket to proceed. A green ticket is that it is cleared to bring into the U.S. It is fit for human consumption.

ASSEMBLYWOMAN ALLEN: And my next question to you would be then, you as an importer sell that to a processor or wholesaler, that paperwork stays with that load of fish, a copy of it, is that right?

MR. ALIOTO: That stays with us, the importer, yes. When we...

ASSEMBLYWOMAN ALLEN: What happens if a warden were to walk into a processor's plant, goes in and sees fish commingled, he said he wanted to see the paperwork on that particular load of salmon, let's say that that was from Chile, he wanted to see that and identify it as the fish that are in the bins, he would have paperwork there?

MR. ALIOTO: He would have our invoice showing, actually the way we word it, would be the number of pounds, it would be the size range, be it head on or headless, Chilean salmon, silver salmon in this case.

ASSEMBLYWOMAN ALLEN: And it would have the date, it would have everything of when it was imported...?

MR. ALIOTO: No, definitely, it would not have that. We would have that. It would have the date we consummated the transaction with that particular buyer.

ASSEMBLYWOMAN ALLEN: I guess what I'm getting at, is I can see where the importer would have a tremendous paper trail, and would have to have, obviously, by federal law.

As it changes hands and goes to a broker, wholesaler, processor, and that is where the state becomes involved because it could be commingled with domestic fish. And for

identification purposes and an audit trail, at that point in time is where a warden who walked in, was doing a market check, would want to see the paperwork on fish, and how you would distinguish how much of the poundage, identify the fish as that load on that day with that invoice and distinguish it from the domestically caught fish that he should have a pink slip on, or a receipt on, distinguishing that load, that poundage, that day, that particular seller or fisherman. That's the paper trail. At that point in time is where the concern would be. Is there documentation that you give to a processor, wholesaler, at that point in time that would identify those fish?

MR. ALIOTO: As I just mentioned, yes, our invoice....

ASSEMBLYWOMAN ALLEN: You give them an invoice, but you say there's no date, no....

MR. ALIOTO: No, I did not say that. You asked if the date of importation was on that, and I said no. The date that we consummated the sale...

All right, let me better explain this. If I sold to you today, Ms. Allen, salmon from Chile, it would be dated today, however, I may have imported this fish yesterday. Our records will show the date of importation, but as far...

ASSEMBLYWOMAN ALLEN: Not the date of sale.

MR. ALIOTO: No, the invoice to you would have the date of sale. Our terms on fresh items are ten days from date of invoice, and I want my money because we are putting our money up front.

CHAIRMAN COSTA: Let's take that a step further, because Ms. Allen indicated...

ASSEMBLYWOMAN ALLEN: The wardens have said they can't identify it, all right? And even the Chief of Patrol said it's very difficult to distinguish. Why is it difficult to distinguish?

MR. ALIOTO: Well, if we are talking about distinguishing the different species, one of Chilean versus silver salmon of domestic origin, I see their point. However, if a customer bought 1200 pounds from three different sources, as I explained, then he would have invoices and the other documentation that I mentioned, bills of lading, to prove this is where he purchased the fish.

ASSEMBLYWOMAN ALLEN: He could have that invoice lying there all day, perhaps have received several different loads of fish and that same one could be identified to those fish and actually could be used to that purpose because you can't distinguish, is this the imported load or is this the domestic load.

MR. ALIOTO: Oh, no, you could because our Chilean salmon, most shippers out of Chile, for instance, they have specific brands, the cases are marked "Product of Chile" versus, if product was bought out of Eureka, it would have that shipper's name on the cases, and obviously, the invoices, so I believe, within reason, that it can be identified. If we did not have paperwork, which we do, and all those fish of the same species, silver salmon, were thrown in one pile, I would have a hard time

saying, "This is product out of Chile, and this is out of Eureka," if both the fish are quality, and I'm sure that it is.

ASSEMBLYWOMAN ALLEN: Could I have, Mr. Costa..., could I have a marine region warden to answer in response to what was just stated, from their perspective what the difficulty would be.

CHAIRMAN COSTA: Do you have any particular one in mind?

ASSEMBLYWOMAN ALLEN: Well, whoever is here from the marine regions and would be able to...

CHAIRMAN COSTA: Mr. Cribbs, Gordon Cribbs. We need to swear you in, Mr. Cribbs. Mr. Moger?

MR. MOGER: Mr. Cribbs, raise your right hand.

Do you solemnly swear and affirm that the testimony you are about to give before this committee shall be the truth, the whole truth, and nothing but the truth? Would you state your full name, please, for the record?

MR. GORDON CRIBBS: Gordon Lynn Cribbs.

CHAIRMAN COSTA: You're a marine biologist?

MR. CRIBBS: No, I'm the patrol chief for Region Five, which is in Southern California counties.

CHAIRMAN COSTA: Does that cover the area that you want, Ms. Allen?

ASSEMBLYWOMAN ALLEN: Yes, Region Five would be marine...

My question, and you've been here for awhile, you know that my concern is how would you identify imported..., is it difficult to identify or distinguish imported fish, from a standpoint of law enforcement, from domestic fish, and you've

heard the testimony that was just offered by Mr. Alioto that there is a paper trail that comes from the federal government, what would the difficulty be for a warden entering a premise of let's say a processor, wholesaler, receiver facility, and being able to identify if it's an imported fish or a domestic fish?

MR. CRIBBS: If I may use an example of two different businesses that we might encounter in the fish business (inaudible)...

CHAIRMAN COSTA: Speak more into the mike, please.

MR. CRIBBS: You have a conscientious fish dealer that's been in business for a number of years that has a reputation to keep with his customers and so forth. He is going to maintain probably one of the best recordkeeping systems, both for his internal purposes and also to present a better image to his customers, and the paper trail with those types of businesses is somewhat easier to follow through on. Where we generally run into a problem is when a quantity of fish is sold by a reputable established dealer to another dealer, and the paper trail that goes with that..., an example would be a load of 5,000 pounds of fish is sold to another dealer. That paperwork could actually cover several loads of fish as long as the amount of fish on the premises never exceeds the amount of invoiced fish. So we don't date stamp fish when it comes into a dealer. The problem that our field personnel have when they encounter a business is that if it has a quantity of fish that's invoiced, they can't determine whether that's the exact fish that came in under that invoice or may be local, illegal or contraband fish that's

commingled. So there is some difficulty identifying the particular fish that goes with the particular documentation.

ASSEMBLYWOMAN ALLEN: So, that would be basically what needs to be still distinguished so we could have the paperwork follow that fish from dealer to dealer. In other words, most of the problem comes when one dealer sells to another dealer and the paperwork breaks down at that point in time.

MR. CRIBBS: Again, documenting those transactions that come in from foreign countries under U.S. Customs clearance and things of that nature, as long as the volume of fish that is declared at the border, say from Mexico, for instance, comes into California and goes to a dealer and there's paper trail along with the U.S. Customs documents, the USDA documents and so forth. When they're in the initial dealer's, we can document that fairly easily, it's when those loads are split, and they're reinvoiced that there is the potential, and in some areas greater than others, there's a greater potential in areas, obviously, where there are large quantities of domestic fish taken, along the coastal areas, that can be put into those loads of fish and distributed throughout the state that we really don't have a good handle on.

ASSEMBLYWOMAN ALLEN: While I have you here, too, Mr. Alioto wasn't familiar with the case in San Pedro, that would be your area, is that correct? In that particular case, there was 22 tons of yellowtail, are you familiar with it? It was a case with Starfish Company. Are you familiar with that?

MR. CRIBBS: I believe the case was with State Fish Company.

ASSEMBLYWOMAN ALLEN: State Fish. All right, that particular incident that occurred, where 22 tons of yellowtail were confiscated and he was cited and there were no receipts in that situation to identify the fish as having been domestically landed, and he was cited. How under this new provisions of 3081, would it be more difficult? Does that have any impact? He came up later with receipts from Mexico. Did they have Customs clearances and all of the types of things Mr. Alioto is referring to? Did that particular receipt cover all of those to distinguish that fish as having come through Customs, etcetera?

MR. CRIBBS: Under the previous legislation, under Section 8043, which was the section which was involved in that particular, my recollection is that the documentation was produced a day or a day and a half after the fish actually arrived at the fish business. The invoices and documents indicated that the fish had come from Mexico. It had come in apparently by an individual that was not licensed with our department as a licensed fish dealer from Mexico, as an importer. A check of the border stations did not indicate any documentation to show that 22 tons of fish had come in. That doesn't mean that it could not have come in, however.

ASSEMBLYWOMAN ALLEN: But there were no documents to prove something had come across the border of that amount?

MR. CRIBBS: That's correct. All we had was an invoice with the name of an individual that had been identified as a Mexican fish dealer.

ASSEMBLYWOMAN ALLEN: So, an invoice saying, "I sold them the fish" But there was no other paperwork, bills of lading, or any other type of paperwork, company invoice?

MR. CRIBBS: That's right. One of the points that was clarified by the new legislation was basically a timelock, if you will, a time period, on when that documentation had to be produced and the content of that documentation was clarified, basically to enhance our access to certain records and documents. So that was a positive thing that did come out of that aspect of the legislation.

ASSEMBLYWOMAN ALLEN: Then I think we've probably beaten this horse to death. Basically there is some problem of identifying import versus domestic caught fish for purposes of taxation or audit for our state purposes, when it is moved from dealer to dealer. Usually the initial import, I think is the rule of thumb, initial import sale to a processor, wholesaler, receiver, broker, whatever, they call it under this new law, but basically, that initial sale could be documented very handily, as Mr. Alioto testified to, our difficulties when it moves from dealer to dealer, the paperwork and correct paperwork. Other than the case of the State Fish Company, where all we had was an invoice, and that case was not prosecuted because the interpretation by Mr. Charlie Fullerton and Mr. Bob Canaan through demur process. I have the case with me. I could probably pull it out. But basically, their demur stating that, "Gee, that isn't the way we always interpreted the code in the past," is what stopped the investigation, is that correct, or the prosecution, rather?

MR. CRIBBS: The decision made by the District Attorney was based on that testimony, that's my understanding.

ASSEMBLYWOMAN ALLEN: What was the code that was interpreted, do you recall?

MR. CRIBBS: It was Section 8043.

ASSEMBLYWOMAN ALLEN: And on what determination did the former director say that this isn't the way we interpret it?

MR. CRIBBS: My understanding, again, having not reviewed the case for some time was that the past practice of the Department was not to literally enforce Section 8043 and require that documentation instantaneously with our inspection.

ASSEMBLYWOMAN ALLEN: In other words, though the law states that they are to have that on the premises when they are there, that the paperwork is to be with the fish on the premises, and they interpreted, "Gee, we don't always make them do that. Sometimes it can come a day or two days later, or three days later," is that correct?

MR. CRIBBS: Again, I don't recall the exact language that they used in the demur and I wouldn't want to misquote.

ASSEMBLYWOMAN ALLEN: But that is the drift of the rationale?

MR. CRIBBS: That's a matter of public record.

CHAIRMAN COSTA: How does that affect your present day activities? Do you require that paperwork on the premises today?

MR. CRIBBS: Well, again speaking of past practices...

CHAIRMAN COSTA: No, I'm not talking about past..., I want to know what you're doing today.

MR. CRIBBS: I want to make the comparison if I may. Historically, any established fish business has been contacted by our program personnel probably literally hundreds of times and been exposed to the requirements of Section 8043 requiring documentation. Our current position has not changed, basically. We do require that documentation be available for review by our personnel and that if they have fish on the premises, particularly if it's fresh fish that they maintain the documents available for us to inspect at that time. Again, that protects them as far as the quality of their fish, and their image with their business customers and so forth.

CHAIRMAN COSTA: Mr. Cribbs, short of tagging every individual fish, is there any way we can be 100% sure of which fish is imported and which is commercially caught?

MR. CRIBBS: No, one of the things that we always tell our new wardens in Southern California that I can testify to is that fish come in to California from outside the state don't have visas. We don't have little bar codes on the side that we can run by a machine and tell whether they're imported or not. It's very difficult to do that.

CHAIRMAN COSTA: And for the purposes of this committee under 3081, do you think the present system allows you as wardens to do the job in determining whether or not fish are adequately being accounted for under the process of 3081 that's being (inaudible), do you see an attempt by the industry or certain processors or importers to circumvent 3081 by declaring fish imported?

MR. CRIBBS: I can testify that there's an opportunity for that to take place.

CHAIRMAN COSTA: But you're out in the field, you have personnel out there, what do you think is happening?

MR. CRIBBS: Good investigations can lead to effective enforcement. One of the problems that has been stated is that we don't have enough personnel...

CHAIRMAN COSTA: We know you don't have enough personnel, but do you think there's anything going on out there that we ought to be aware of?

MR. CRIBBS: Yes. There are people taking advantage of the system. Yeah.

CHAIRMAN COSTA: There's always people taking advantage of the system. Yesterday, I want to be very frank with you, I broke the law. I needed to get here in Sacramento from Merced, and I exceeded the speed limit by more than you're supposed to, and I did and a lot of other people did too, and we have 6,000 CHP officers to deal with 27 million people, we have 340 some wardens to deal with a lot of fish. There's always going to be some circumvention of the law, and I guess my question to you is, how much can we tolerate, how much is significant? How much is Uncle Joe out there, was handed the fishing pole and didn't have a license, or how many guys are out there saying, "I don't want to pay that license, but I know where you wardens are and I can avoid you guys." I mean, is it significant?

MR. CRIBBS: Again, anytime there's a price tag on a commodity, there is an incentive to take advantage of the system.

There's a second thing that doesn't even involve fish and game law, that if I violate the provisions of the Fish and Game Code dealing with fish businesses, I may gain an advantage over a competitor, and there is the record of cases the Department has prosecuted that include unfair business practices. So, there are other incentives for violating Fish and Game laws other than...

CHAIRMAN COSTA: But I guess the question is that you say yes, it's taking place out there. You didn't let us know to what degree, and what I'm trying to understand is it sufficient to the point, or do you believe that it's sufficient to the point that Mr. Peace and his subcommittee next year ought to attempt to try to make a case to this administration and the Department that we ought to increase 50 more wardens in Region Five or whatever. I just threw that number out, but is it sufficient? Would it be cost effective? Are we going to get that much bang for our buck, in essence, if we provide those additional wardens? Is the problem that significant?

MR. CRIBBS: I think our field contacts have shown, and investigation reports have shown, that there's anywhere from 15% to 25% of nonreporting or of illegal reporting. Now that includes also the landing information that's not recorded as well as the import.

CHAIRMAN COSTA: Mr. Moger, do we have any other taxes in which we have similar reporting problems that you can think of?

MR. MOGER: As I understand your question, the problem of determining a commodity that is handled in business in

California, cigarette taxes, for example. Cigarette packages are identified individually with a tax stamp and consequently when you find a pack of cigarettes without a tax stamp and you find a vendor who sold those cigarettes without the tax stamp tax, you can identify that a violation has taken effect. Usually that vendor then can give you his records. But when you're dealing with something like bulk commodity, such as, for example, sardines, it would be very difficult to attach a tax stamp to everyone of the sardines in a load of 5,000 pounds of sardines or herring or what have you, and the law does not presently require that in the case of commercial fishing.

CHAIRMAN COSTA: Mr. Condit for a question or comment?

CHAIRMAN CONDIT: I just want to make sure I heard Mr. Cribbs correctly. Earlier you stated that you thought the problem might be when the fish changed hands between dealers and the paperwork, is that correct, that you think there may be part of the problem, in the paperwork?

MR. CRIBBS: That's one of the areas where we've encountered problems...

CHAIRMAN CONDIT: Is that a high percentage?

MR. CRIBBS: Again, I can only speak for the region that I'm responsible for.

CHAIRMAN CONDIT: Is that because they don't fill out the paperwork correctly, or is it because you can't check it?

MR. CRIBBS: Both reasons. In other words, there are dealers who are familiar with the requirements because, they maybe don't have good business sense.

CHAIRMAN CONDIT: This may be an enforcement question, but if they don't fill it out properly, what do you do?

MR. CRIBBS: We try to work with them to seek compliance. In other words, we're also...

CHAIRMAN CONDIT: Do you have any penalties for not filling it out properly?

MR. CRIBBS: Initially might be a warning and if they don't comply after that with our assistance there may be a violation and we file a complaint, and...

CHAIRMAN CONDIT: But you don't know what percentage of the changing of hands causes the concern we're having?

MR. CRIBBS: No, because the number of times the fish changes hands we don't really have a handle on either. I mean, it may change hands twenty times.

ASSEMBLYWOMAN ALLEN: I have a question on that point.

CHAIRMAN COSTA: Yes, Ms. Allen, a question.

ASSEMBLYWOMAN ALLEN: I think for us to really be able to fairly say how often this happens wouldn't be a fair question because if you can't identify or separate the fish then it's very difficult to establish how often it's happening. In other words, if you have, when dealers to dealer, and you cannot establish which fish is which once that paperwork is not established and isn't with it, how would you say this is illegal fish and this is legal fish, so it would be very difficult to answer, I would think.

MR. ALIOTO: Ms. Allen, may I comment on that?

CHAIRMAN COSTA: Well, that's a statement, I think, right? Was that a statement, or...?

ASSEMBLYWOMAN ALLEN: Well, I think it's a question. You're saying anywhere between 15% and 25%, right, but even at that it would be difficult...

MR. ALIOTO: Yes, if it changed hands from many..., let's just assume it went from an importer to a wholesaler to a dealer to a processor, back to a retailer, well, obviously, we're in business to make money. And each of these entities are. So this price is going to be bid up. Now, there's only so much profit you can take out of a product and be uncompetitive, as was stated earlier, so my point, what I would like to say is, I do not believe that practice of changing that many hands, certainly from an importer such as ourselves, to a wholesaler, to a retailer, does happen, or processor does happen. But to keep footballing back, no, I don't believe that happens that often.

ASSEMBLYWOMAN ALLEN: But wouldn't it have to go from a processor..., in other words, you're the importer, well, obviously you're going to have to sell to a wholesaler who can market the product. If it's got to be processed before it goes to a market or to a restaurant and has to be filleted or whatever, and has to go to a processor which ultimately would end up with a retailer.

MR. ALIOTO: Not necessarily, though, Ms. Allen, because under the existing licenses that we have, our company, we have dual licenses. We have to have an importer's license. We have a wholesaler's license to sell our goods. We, because we sell nationwide, import and sell directly to major chains.

ASSEMBLYWOMAN ALLEN: So in your situation you might..., because you have a wholesaler end, but some don't. Importers are not always wholesalers. They don't always sell their own import. They sell it to a wholesaler, usually, but they don't always sell directly to either a processor or a retailer, and so, in those situations is where we would run into the difficulty, I think.

MR. CRIBBS: If I may clarify that figure of 15% to 25%. That was based on some information, when we intensified our market check activity in the late 1970's and early 80's, that was based on the businesses that we actually checked and found violations, that it was 15% to 25% nonreporting of the fish that they were dealing with. That is not 15% to 25% of all businesses are not paying or reporting.

CHAIRMAN COSTA: Do you agree with that figure Mr. Alioto?

MR. ALIOTO: I can't question the figures. I don't believe them. I would like to see them in black and white, but I don't believe the figures.

CHAIRMAN COSTA: Very good. Thanks to both of you for your time.

Mr. Bontadelli, who might best respond to what the Department's doing on the status of the collection of those shrimp taxes? All right, we want you to be very brief and to that point. Mr. Moger, will you perform your duty and..., because I want to move to the next section.

MR. MOGER: Mr. Toffoli, would you please stand and raise your right hand? Do you solemnly swear and affirm the

testimony you are about to give before this committee shall be the truth, the whole truth, and nothing but the truth?

MR. EUGENE B. TOFFOLI: I do.

MR. MOGER: Would you state your full name for the record, please?

MR. TOFFOLI: Eugene B. Toffoli, legal advisor, Department of Fish and Game.

CHAIRMAN COSTA: What's the status of the collection of the...?

MR. TOFFOLI: The lawsuit initiated December, 1985, was..., there were a lot of things that did happen but there were a lot of interveners. There were several interveners that entered the suit that, since the lawsuit was initiated, the department has answered the suit. There was an initial settlement conference in September of 1986.

CHAIRMAN COSTA: What happened with that settlement?

MR. TOFFOLI: That's ongoing now. That settlement was rejected.

CHAIRMAN COSTA: Rejected by whom?

MR. TOFFOLI: Rejected by the Department.

ASSEMBLYWOMAN ALLEN: What was the amount of the settlement?

MR.. TOFFOLI: I'm not privileged to say that. This is in litigation. It's not part of the..., it's not something that we can divulge. This committee is not a proper forum to discuss that. All of the parties that are part of that suit would have to...

CHAIRMAN COSTA: Because it might jeopardize the case pending in court?

MR. TOFFOLI: That's right.

CHAIRMAN COSTA: Please go ahead.

MR. TOFFOLI: There has been a..., we have settled with two to three of the processors that..., the shrimp processors, that under the audit, and they have provided their...

ASSEMBLYWOMAN ALLEN: Under which audit?

MR. TOFFOLI: Under the initial department of Fish and Game, the one in...

ASSEMBLYWOMAN ALLEN: The internal audit?

MR. TOFFOLI: Yes, the internal audit you're referring to. These processors...

ASSEMBLYWOMAN ALLEN: Which three processors have settled? Two or three?

MR. TOFFOLI: Well, they have not settled. They have paid under protest. The Attorney General has given them two years.

ASSEMBLYWOMAN ALLEN: Paid under protest. Is that everything that you computed they owed?

MR. TOFFOLI: Yes.

ASSEMBLYWOMAN ALLEN: And are they taking further action? But they already made the payment to the Department?

MR. TOFFOLI: They paid under protest...

ASSEMBLYWOMAN ALLEN: How much money was that?

MR. TOFFOLI: I don't have those figures with me.

ASSEMBLYWOMAN ALLEN: Could you provide them to us this afternoon?

MR. TOFFOLI: I believe I can. I believe I can provide those..., I may be able to, but I'll have to check with the Attorney General that's handling the litigation.

ASSEMBLYWOMAN ALLEN: If it's been paid I would think that you would be able to provide...

MR. TOFFOLI: But they're paid under protest, but I believe we can provide you that.

ASSEMBLYWOMAN ALLEN: Well, then, basically ..., well, the amount that's owed might be a better question than the amount that's paid. Would that make a difference?

MR. TOFFOLI: That's owed by whom?

ASSEMBLYWOMAN ALLEN: Those two or three. Whichever ones have settled.

MR. TOFFOLI: Okay. I'll have to check on that, but I believe it's a part of the litigation and maybe litigants, since they paid under protest, so all of the figures and the documentation would not be appropriate to publish or...

CHAIRMAN COSTA: Mr. Toffoli, can you give the committee a sense of what's going on? We have an Auditor General's report, and what I read out of the report is that four of the six dealers, we'd collected approximately \$105,000. That's what the Auditor General's report indicated, and two dealers that you're still in court with owe an estimate of over \$400,000, the figure I have here is \$454,600. I don't know if that's correct or not.

MR. TOFFOLI: Yeah, that's still in the ballpark. At that time...

CHAIRMAN COSTA: Is that an accurate estimate of what the status is of the collection of these six processors?

MR. TOFFOLI: The status is that the processors that owe are still being assessed over time so that you may have to consider penalties and interest, so that may not be an absolutely accurate figure.

ASSEMBLYWOMAN ALLEN: So the \$105,000, we may appropriately ask the Auditor General, but the \$105,000 that was collected was not even including penalties and interest. They weren't billed penalties and interest, is that correct?

MR. TOFFOLI: The...

ASSEMBLYWOMAN ALLEN: What does paid under protest mean?

CHAIRMAN COSTA: Mr. Moger, do you want to indicate what the pay under protest means, as our legal counsel?

MR. MOGER: I think the best way to describe that is when a tax is alleged owed due by a government entity, the taxpayer has two remedies in trying to determine the validity or invalidity of both the amount and the imposition of the tax. The taxpayer can pay the tax and under protest, if you will, it's a term of art, basically what he does is pay and sue for a refund, or claims for a refund, in whatever administrative procedure or court procedure the law has provided for that particular tax. The purpose of the payment and request for refund, of course, is to cut off any penalties or interest.

CHAIRMAN COSTA: It's to legally protect them against any further punitive damages against the Department, but at the same time attempt to protect their legal standing to the case that they believe they've been unjustly taxed.

ASSEMBLYWOMAN ALLEN: Have these particular processors, at this point in time, have these particular processors or dealers filed a claim administratively, or put forth some litigation, to answer their protest, paid under protest, action?

MR. TOFFOLI: No, they have not.

ASSEMBLYWOMAN ALLEN: Then what is the whole purpose for their paying under protest? Are they going to take some action? Does that indicate that they are?

MR. TOFFOLI: That will be up to them. That's at their discretion.

CHAIRMAN COSTA: That's a question that, I guess, they have to determine with their legal counsel. The Attorney General's given them two years.

ASSEMBLYWOMAN ALLEN: They have two years within which to file, is that correct?

CHAIRMAN COSTA: That's what I understand. The Attorney General's...

MR. TOFFOLI: Right, to take any action on their protest.

ASSEMBLYWOMAN ALLEN: How long ago did they pay?

MR. TOFFOLI: It was August, I believe, of 1986, so that will give them...

ASSEMBLYWOMAN ALLEN: August of 1988.

MR. TOFFOLI: August of 1988.

CHAIRMAN COSTA: All right. That's the status of the collection. Moving right along, move to the enforcement of commercial fishing laws and regulations.

ASSEMBLYWOMAN ALLEN: One question wasn't answered, which was what they charged penalties and...

CHAIRMAN COSTA: Oh, I'm sorry. Did you have another question or comment?

ASSEMBLYWOMAN ALLEN: No, it's one that they were looking to find the answer to.

CHAIRMAN COSTA: Oh, I'm sorry. Did you provide the answer to the question? Was there interest or penalty collected?

MR. TOFFOLI: Oh, no, the answer to that is no, and that was based on the Attorney General's opinion that said that due to erroneous administrative instruction that the penalties and interest were not a valid charge.

ASSEMBLYWOMAN ALLEN: That's money charged, like two sixty to some shrimp dealers and \$25 for the same tax. In other words, some were paying, like, \$2.60 a ton tax and others were paying, for the same, \$25. Was that the argument? How many did you have paying \$2.60 versus the \$25 a ton?

MR. TOFFOLI: I think three out of the four that... I believe that three out of the four. One was paying nothing, and he was assessed full value, and I can't remember the numbers now but two or three were paying at the reduced rate.

ASSEMBLYWOMAN ALLEN: Of \$2.60, and they're the ones that didn't have to pay penalty or interest because they weren't charged the full \$25 a ton?

MR. TOFFOLI: They weren't charged, they did not pay it. They paid those under protest. The discrepancy between the \$2.60 that they had paid and the \$25.

ASSEMBLYWOMAN ALLEN: And the dealer who didn't pay anything, who's still in question?

MR. TOFFOLI: No, that's no question. He complied and paid. He was not...

ASSEMBLYWOMAN ALLEN: Did he pay at the \$25 a ton rate?

MR. TOFFOLI: Yes.

ASSEMBLYWOMAN ALLEN: But no penalty or interest for him either?

MR. TOFFOLI: No penalty and interest on that one.

ASSEMBLYWOMAN ALLEN: No penalty and interest? Thank you.

CHAIRMAN COSTA: All right, thank you very much. Moving on to enforcement of commercial fishing laws and regulations. Mr. Dewayne Johnston with the Wildlife Protection Branch, Department of Fish and Game.

ASSEMBLYWOMAN ALLEN: Mr. Chairman, are we into the next section now?

CHAIRMAN COSTA: Yeah, we're moved into the next section.

Mr. Moger, for purposes of procedure, since both of these witnesses have been sworn in under the previous section, do we need to swear them in again or does that suffice?

MR. MOGER: No, Mr. Costa, I think that a reminder to the witnesses that they previously have been sworn before this committee is sufficient, and they are still under oath.

CHAIRMAN COSTA: Okay, I'll remind them that you know you have previously been sworn in. We won't repeat the effort. Please, Mr. Johnston, will you proceed?

MR. JOHNSTON: Mr. Chairman, members, Dewayne Johnston. I'm the Division Chief for the Wildlife Protection Division for the Department. I'm going to briefly describe our marine law enforcement efforts within the Department of Fish and Game for you to try to give you an idea of where the Department was, where we are currently, and where we're looking to go.

From the late 1960's to July 1, 1985, the Department was organized into six regions and various staff functions. There were five regions with inland responsibilities and one region with marine and commercial responsibilities. Each region had an enforcement function. In order to increase efficiency, eliminate duplication of supervisory positions, reduce specialization within the wardens' ranks and develop more well-rounded officers, and to provide better training and supervision, the Department eliminated this separate marine region. For purposes of this discussion, I'll just talk about what happened to the wardens.

Marine enforcement responsibility was assumed by the adjacent land region and enforcement officers were reassigned as appropriate. Department side this reorganization seems to be working very well. The potential exception is in the southern California area of Region Five where the Department's historic vacancy rate makes evaluation difficult. To ensure that our marine enforcement effort did not suffer because of the reorganization, specific steps were taken to increase our marine

presence. Regional enforcement personnel were instructed to provide a 10% increase in hours devoted to marine patrol. This contributed to a 54% increase in commercial and a 64% increase in sport fisheries citations in fiscal year '86-'87. An even greater increase has been achieved in the commercial fish business inspections. Statewide, the Special Operations Unit documented 195 fish business inspections conducted in fiscal year '85-'86.

In fiscal year '86-'87, 1122 inspections were made. These figures do not include a large number of fish businesses inspected by the regions independent of the Special Operations Unit. One warden recently made contacts in one week which resulted in the sale of over \$6,000 worth of licenses. Another warden reported contacts which resulted in license sales of over \$2,000.

Since July 1st, 1986, the 119 patrol officers involved in varying degrees in marine enforcement effort have received a total of 3500 hours of training in that subject. The stated goals of the reorganization have, essentially, been met, however, our intention is to see continual improvement of the effectiveness of our marine enforcement effort. The addition of two long-range patrol vessels and the training of alternate crews are steps in that direction.

The Department is working to fill the vacancies in Southern California. Special Operations Unit will continue its monthly fish business investigations details in selected areas of the state and the regions will continue routine inspections in

their assigned areas. Additionally, the Department has taken steps which should improve the overall quality of the officers involved in marine law enforcement. Historically, the Department's newly hired wardens have gone to the required peace officer academy and then directly to the field. They received very little or spotty training in laws specific to Fish and Game. The Department was concerned by this lack of training so a field officer training program, FTO, was developed to train all newly hired wardens in the specifics of how to be a fish and game warden. The training consists of an intensive, thirteen week course, developed especially for wardens. It includes ten critical Fish and Game learning units with daily field experience in the presence of a veteran warden FTO. When the new warden completes this program, he or she is considered to be a solo warden capable of handling most any task. If the new warden does not complete the program he or she is de-selected and rejected on probation. This program has had a positive impact on both land and marine enforcement training. The Department feels that this program develops wardens from two to three years quicker than under the old system.

The Department has also started its own law enforcement academy which, I might add, we're pretty excited about. The academy meets all commissioned peace officer standards and training guidelines and is geared toward Fish and Game wardens. The academy is being held at Napa Junior College. The first class begins on November 2, 1987.

An important part of our marine enforcement efforts have been carried out by a fleet of patrol boats based in various strategic locations along the coast. Historically, the major boats involved were the Bluefin in Eureka; Bonita in San Francisco; Tuna in Monterey; Yellowtail in Channel Island, Marin; the Marlin in Long Beach; the Albacore in Long Beach, and the Skipjack in San Diego.

The fleet was able to handle the task when the boats were first purchased, however, different fishing methods, the development of new fisheries which range far offshore, and increased maintenance as the boats grew older made changes in the Department's boat operations necessary. The Department developed and implemented an ambitious plan to upgrade the fleet and to redeploy existing boats to more adequately provide an offshore presence. A budget change proposal was developed and the proper funding to begin a replacement program was placed in the Governor's budget for the 1987-88 fiscal year. The budget was approved and the Department has acquired two new patrol boats. The boats are 100-foot crew boats which were obtained for a fraction of their value because of the depressed oil economy. One boat is currently on the water providing patrol in the Southern California area. The other boat is still in the process of being refitted to suit patrol needs. It should be available by mid-December.

Currently, we have the Broadbill, which is stationed out of Eureka. That's the 100-foot boat that's on patrol in Southern California. We have the Albacore in San Francisco Bay. We have

the Bonita, which is in Bodega Bay, which is being surveyed because of its age and condition. The Bluefin, which is in Monterey; the Yellowtail in Channel Island, the Marlin in Longbeach, the Hammerhead, which is the boat that's being refitted, the Tuna in San Diego, which is being surveyed, and the Skipjack which is also being surveyed. When the refitting of the Hammerhead is completed it will begin patrol of the Southern California waters and the Broadbill will be moved to Eureka to cover those fisheries. The Skipjack was replaced by the Hammerhead, and when the Bonita, Tuna, and Marlin are replaced with newer, more seaworthy boats, the fleet will be comprised as follows: we'll have the Broadbill, a 100-foot crew boat in Eureka, the Albacore, a 65-foot boat, in San Francisco; the Bluefin, a 65 footer in Monterey. We intend to have a new boat in the Channel Islands area to take the place of the Yellowtail, the Yellowtail will be moved to the King Harbor area. We will have a new boat in Long Beach to take the place of the Marlin. We'll have the Hammerhead in Long Beach, which is the other 100-foot crew boat, and we'll have a new boat in San Diego to take the place of the Skipjack.

The process of upgrading our fleet will take approximately six years. When it is complete we will have an additional boat and we will have redeployed the boats to do a more effective job with today's fisheries. We are attempting to speed up the process by one year by asking for a deficiency in the current budget year. This was made necessary by a fire aboard the patrol boat Tuna. If we are successful in obtaining the deficiency, the upgrading will take five years.

Finally, the reorganization has resulted in better coordination between the Wildlife Protection Division and the wildlife protection functions of the various regions. The complicated laws related to marine resources make close coordination between the regions extremely important in order to assure that they are enforced equitably statewide. All senior regional law enforcement officers, region managers, and wildlife protection staff meet at least six times per year to ensure that this coordination takes place. The Department is convinced that increased efficiency has been, and will continue to be, realized in the marine, commercial, and recreational fishing law enforcement area.

Thank you very much.

CHAIRMAN COSTA: Thank you very much, Mr. Johnston. Mr. Bontadelli, do you have any... We have Mr. Hauser and Ms. Allen. Mr. Hauser?

ASSEMBLYMAN HAUSER: Since we're talking about the Department, I'd like to expand a little bit beyond just marine enforcement and ask some generalized questions. I know some of these have probably been answered in our earlier discussion.

Does the Department of Fish and Game have sufficient wardens to carry out the responsibility mandated by the Legislature?

MR. JOHNSTON: I think that that's a question that we really aren't able to answer at this time. I think, you know, a gut feeling is that yes, we probably do need some additional wardens, but what we've tried to do, and the marine

reorganization is an example. We had two patrol captains in Monterey and we had two patrol captains in San Diego, and we had two patrol captains in a couple of areas, and we had similar duplication of these. As part of the reorganization, we downgraded those positions and turned them back to wardens' positions, so we've tried to increase our efficiency.

Another thing that's impacting that problem is our vacancy rate. We have a continuing problem in Southern California. If we could fill all of those positions then I could make the specific statement to you that, yes, we need a certain number of wardens. Additionally, the Department's really never looked at..., you know, staff criteria. What are our wardens doing? What do we need our wardens to be doing where the violations are? Have we got our wardens in proper locations? We've got a position for a game warden, for instance, in Chino, just to give a city. I don't even know if we've got a warden in Chino, but to give you an example, and that position may have been there since the turn of the century and we just continue to fill it in the Chino area. To address that problem we've got a pilot program going in Southern California and we've sent Regional Patrol Chief Cribbs to various states to look at programs so that you can make good, sound, evaluations of what your staffing needs are.

Now, to go along with that, we've also asked for additional positions. The Special Operations Unit, we saw a need and we asked for those additional positions for a special use, but gut feeling, yes, you feel that the Department needs more

wardens because if you just look at the pure numbers, we're outnumbered out there. We've licensed four and a half million folks, but we'd like to go about it in a methodical manner and when we come to the Legislature or the administration and say, "We need ten positions in Southern California. Here's the data," you know that we've got a good defensible position and we don't think that we're in that situation yet.

ASSEMBLYMAN HAUSER: All right, in line with that, what has been the increase in the number of wardens out there in the field over say the last five years?

MR. JOHNSTON: Over the last five years the increase to the Department, we increased six with the Special Operations Unit, the Legislature gave us six new positions in that, and we've downgraded seven supervisory positions and those are increase, so we've got a net increase of thirteen field positions over what it was, say, five years ago.

ASSEMBLYMAN HAUSER: Thirteen? In five years?

MR. JOHNSTON: That's correct.

ASSEMBLYMAN HAUSER: During the past twenty years or so has the Legislature and the Administration placed requirements on Fish and Game for numerous, or any other activities, beyond enforcement of marine resource or inland resource protection?

MR. JOHNSTON: Obviously, every time one of the big new things that's happened in the Department in the last twenty years that everybody's familiar with is the gill netting. All the various gill netting laws and those type things were additional burdens on the department. The animal welfare law that was

passed by the Legislature in, I believe, it was 1976, placed an increased burden on the Department. There have been other...

ASSEMBLYMAN HAUSER: On the gill nets specifically, has the Department taken an official position on either last year's attempt at an initiative or this year that would set a three mile limit?

MR. JOHNSTON: I don't...

MR. BONTADELLI: There is not official position of the Department on either of the initiatives.

ASSEMBLYMAN HAUSER: Okay.

ASSEMBLYWOMAN ALLEN: If I may too, in line with what Mr. Hauser said, an increased responsibilities for wardens over the last, we'll go twenty years but I think we could even go back even ten years or five, animal welfare law is one, but EIR's, biologists do some of them but those streambed checks that are being done by wardens in the timber area, we have exotic animals that they have to check, that's something new that's been put on them. Pollution, so there's been a tremendous increase of responsibility through legislation and policy that has been put forth on wardens in the field, and in reality, what you have done is increase, you say that you have put more totally into the field, but in reality you've only added six new positions. The vacancy rate is at what level at this point, which is the same as not having wardens in the field.

MR. JOHNSTON: The vacancy rate, currently, is about five to seven percent, which is pretty standard...

ASSEMBLYWOMAN ALLEN: In southern region it's what?

MR. JOHNSTON: No, the southern region is where the difficulty lies and that's where the big..., I believe, and if you'll give me a second I can tell you how many vacancies we've got in Southern California.

ASSEMBLYWOMAN ALLEN: I understand that they just filled some in the last week.

MR. JOHNSTON: Well, we're in the process of filling..., we will fill nineteen. Like I said, our new academy starts November 2, and there'll be six new officers in that academy.

ASSEMBLYWOMAN ALLEN: How many wardens will it take out of the field to train them? For what period of time?

CHAIRMAN COSTA: Ms. Allen, did you ask, because I was out, how many wardens they have now presently on the coast. Did you ask them to identify...?

ASSEMBLYWOMAN ALLEN: No, I'm asking in Southern California, where the vacancy rate is really quite high.

MR. JOHNSTON: In response to your question, in Southern California there are currently twenty-six vacant positions in the Department. Thirteen of those are in Southern California, and I'll give you a quick rundown of them. There's a Patrol Captain vacancy in Long Beach, Patrol Lieutenant in Long Beach, wardens positions in El Monte, Indio, Lone Pine, El Centro, Quillama, Chino, three in Long Beach, two in San Diego, and one in Redondo Beach. The San Diego position will be filled effective the thirtieth. The two Long Beach positions will be filled effective the thirtieth.

ASSEMBLYWOMAN ALLEN: Two or three?

MR. JOHNSTON: Two of the three will be filled effective the thirtieth. The El Centro position will be filled on December second. The El Monte position will be filled on the thirtieth, and that's the Region Five positions that will be filled in this hiring.

CHAIRMAN COSTA: That's a total of how many?

MR. JOHNSTON: We will fill five of the thirteen vacancies in Southern California which will leave them with eight.

CHAIRMAN COSTA: There's a total of how many statewide?

MR. JOHNSTON: Statewide? There are 265 sworn positions within the Department of Fish and Game. Two hundred and fifty four of those are warden positions.

CHAIRMAN COSTA: I thought there were 350, sir.

MR. JOHNSTON: Oh, excuse me. Did I say 265? I was thinking of the warden. Three hundred sixty-five total sworn, 254 wardens, 61 lieutenants, which we feel are the field level.

CHAIRMAN COSTA: Which would qualify as a warden as well?

MR. JOHNSTON: Yes, I am a sworn officer. I'm included in the 365.

CHAIRMAN COSTA: Mr. Hauser?

ASSEMBLYMAN HAUSER: I just want to finish with my last question of these witnesses, and that is, with the increased responsibility of the Department, especially in the non-game areas, what has been the increase in General Fund participation and funding the Department?

MR. BONTADELLI: In 1984, the approximate level of General Fund funding of the Department was somewhere between three and four million dollars annually. As a result of legislative actions in recent years and the Governor's budget increases in years, we now have approximately a \$10 million annual General Fund appropriation. Hence, approximately 10% of our total budget comes from the General Fund. During that same period the environmental license plate support for the Department has risen from approximately \$4 million to also approximately \$10 million. Therefore, we've gone from approximately 7% outside of the Fish and Game Preservation Fund and federal funds to approximately 17%, or 20% on the average, in the last two budget years. During that same period of time, you asked about the five year period and the thirteen wardens that have been reassigned to the six totally new positions, I believe if you asked the same question for the last ten years you would find the numbers are virtually identical. There have been no changes in the total number of wardens in approximately ten years. This has been an ongoing and continual problem. Under the current formulas and everything that are used for the Department and which were points of controversy in our discussions during the budget process last year, it came to everyone's conclusion that the approximate ratio of support for a warden position is 86% Fish and Game Preservation Fund, 15% General Fund or other sources.

Last year, along these lines, we made a case that was questioned by the Legislative Analyst. Our position was upheld by the subcommittees with Mr. Peace in the Assembly and Senator

Vuich in the Senate that allowed us to have 100% funding of the special funds from the General Fund, because that maintained the overall 86-14 ratio which is the current ratio that is used for supporting warden positions. Hence, any new warden positions that come on line must be supported 85% from the Fish and Game Preservation Fund under the current ratios and 14% from the General Fund.

Two years ago we were facing a situation which indicated we had an approximate \$7.2 million deficiency according to the information provided by the Legislative Analyst. As a result of the fee increases, both in the sport area and in the commercial area, the Department in the current year is showing an approximate \$3 million, or 3%, budget reserve for uncertainties which we held. The balance of the money was appropriated. In that appropriation during those first years we had money we began requesting and receiving new positions within the Department. We are in the process of going through the preparation of next year's budget and I am hopeful that we'll have additional increases reflected in the budget submitted in January.

ASSEMBLYMAN HAUSER: That's a long answer, Mr. Bontadelli. What you're saying is that you've increased some, you'd like to increase some more, but the Department is constrained by what the Department of Finance tells you.

MR. BONTADELLI: We are constrained by the existing formulas which were established in 1977-78, pursuant to Section 711. I believe you have a series of reports that will be forthcoming, and I believe the Department of Finance will

indicate they'll come, or were scheduled, about approximately in January, which will indicate the validity of the 1978 funding formulas in terms of what we are currently doing.

ASSEMBLYMAN HAUSER: Should those formulas be changed?

MR. BONTADELLI: I think that there's going to be a matter of policy decision on some of those in terms of the Legislature. Last year, for example, we had our new cost accumulation put into effect. It was geared specifically to species, which is the basis for determination. For example, deer are currently considered 100% Fish and Game Preservation Fund. Endangered species would be considered 100% non-game or environmental license plate or some other source. So right now, it's based on species. Certain of our activities do not fit conveniently into those types of schedules. Therefore, at the request of the Legislative Analyst, we agreed to a change in Mr. Peace's committee, which is budget control language, and we are now adding habitat and a couple of other items which will give a break out that will allow, hopefully, a clearer definition. We believe there will be some changes in that regard reflected in the budget that'll be submitted in January.

CHAIRMAN COSTA: Mr. Hauser, are you finished?

ASSEMBLYMAN HAUSER: My only other one, this is a little bit off the topic, but are you going to also break out force practices inspection process?

MR. BONTADELLI: We eliminated that.

ASSEMBLYMAN HAUSER: Thanks.

CHAIRMAN COSTA: Did you get a response?

MR. BONTADELLI: We currently have, I believe, four wardens that are paid for fully by the Department of Forestry, who are that primary responsibility, biologists, rather, not wardens.

CHAIRMAN COSTA: All right, we have the chairman of Sub Three who has some questions or comments and then Ms. Allen.

ASSEMBLYMAN PEACE: Ms. Allen go on, it's fine.

CHAIRMAN COSTA: She wants to..., is this what you told me earlier?

ASSEMBLYWOMAN ALLEN: No, I have some questions here as well, prior to that.

CHAIRMAN COSTA: Okay, fine. Because he wanted to ask this question.

ASSEMBLYWOMAN ALLEN: Thank you. My questions would be along the fiscal nature, and hopefully, I want to ask the chairman this, we have some fiscal, and as you mentioned, the cost accumulation reports, we have some fiscal, really in-depth fiscal considerations to take, I believe, any legislative committee that's looking seriously into oversight, and because of the cost accumulation reports and hopefully..., I don't know if you'll get into that today, but I almost think it's going to take a hearing, a day of it in and of itself, because of the problems that we've run into...

CHAIRMAN COSTA: I think you're correct. That's why we're setting the time up in January.

ASSEMBLYWOMAN ALLEN: Yeah, because that particular issue I wanted to get into somewhat today because I have grave

concern. I asked you for a number of reports, of which I only got a few, but one of them was the cost accumulation reports. Some were monthly reports, I did not get those as well, and looking at the information that did come to me, and the way that time is..., I've got time reports for wardens in Two and Five, which are not all conclusive, they're not all inclusive. You did not send me the brain patrol time reports which are coming out of Sacramento and not Regions Two and Five, but basically, dealing with marine enforcement, so I'm still going to continue to ask for those because technically that should have been included. The point being, in all of that, when you look at the time reports and you look at the cost accumulation, and even your chart of accounts: your chart of accounts doesn't even correlate with your cost accumulation reports, because we don't break down species, nothing. And I just got these last night, so it's very difficult to come up with a very all-inclusive questioning of you today, but just from the bit that I did look at and say up until the wee hours trying to make some sense out of, there were inconsistencies. There's not a way to tie the time reports to the cost accumulation to say under 711 of the code that you referred to, what should be charged to each user group.

Also, I found that I have concern that the percentage of time spent in commercial enforcement is minimal, not even 2% of the time is spent in commercial enforcement, based on the reports you gave me, so I think there is tremendous discrepancy and confusion. We see a category where they talk about fish food, \$2 million, yet I've asked for invoices for fish food and I don't

get them, but we see other things have been charged, on that contingency account, that is not fish food. So I just think it's going to take a tremendous amount of effort to take a look at that, especially since the Legislature as a total body has asked for a cost accumulation report from the Department. They have asked for..., how do you categorize how much time for expenditures versus revenue from that same user group under 711? We're not getting it. And this certainly misses the mark by a lot. And I think it's going to take a tremendous amount of questioning...

CHAIRMAN COSTA: Do you care to respond, Mr. Bontadelli?

MR. BONTADELLI: Ms. Allen, I agree with you that there are some significant problems that have been ongoing in the Department for a substantial number of years over a variety of Administrations relative to our accounting systems approximately three to four years ago, and the focus occurred at about the time we made what some people told me at the time was a mistake. The Fish and Game Preservation Fund, in the budget, prior to 1984, consisted of a single line item that was the total amount of money in that fund. In reality, the Fish and Game Preservation Fund is composed of seventeen separate accounts, varying from the tax checkoff for threatened and endangered species to the majority undedicated portion of the funds coming from either commercial income or hunting and fishing licenses. What we did, starting in 1984, working with the Legislative Analyst, who in the previous year had gone after the Department for an unseemly surplus, was to break that out and indicate that if you look at

each of the accounts you will find in exactly the same year, which was the first year of this administration, the Department was being attacked for having a surplus. We broke it out. The surplus, in fact, was there in the fund as a whole. It resided almost exclusively in the dedicated accounts. In the undedicated accounts, those from which the Department had on the whole operated, most of our wardens and everything else, was in fact in deficit and had been in deficit for all but two years since 1972. In the last three or four years, working jointly with the subcommittees in both houses and in the funding bills that were carried by Mr. Kelly and then by Mr. Felando in the commercial area, we have returned it to the point where we now are fiscally solvent over all. If you're asking if all of the details are clear and in complete internally, I will answer clearly, "No, not as of today." If we are making progress, I will answer, "Clearly, in my estimation, we are." We have a long way to go to have ourselves on a standard accounting system. As of this point in time we are scheduled to go on Cal Stars which is the standard statewide accounting system as of January 1st, 1989. In preparation of getting there we have brought in outside consultants who are currently going through 100% of the activities in our accounting offices and everything else to find out precisely whether we can transfer directly to the cost accumulation accounting methods used by other departments or whether modifications are necessary. We have simultaneously moved forward with feasibility study reports to bring ourselves into the computer era. In fact, we had an old Burroughs system

which was acquired after it had been discarded by the Highway Patrol as the only internal accounting mechanism that we had as of four years ago. During the process of trying to put that together, I have discovered that it is not quite as easy as I thought it was when I was working over here to request an action and to see it come into place. It unfortunately requires a few other things that have to be followed. If you want to purchase a computer, a significant system such as we would need, or even go onto Teal, which is the existing system, which is what we will probably ultimately do, or the Health and Welfare Data Center, which Cal Star is located, you have to go through a process of going through a series of feasibility reports. It takes anywhere from six to eighteen months to complete one. Once it's been done it goes to the Office of Information Technology, and then into the budget process, so a minimum of two to three years lapses and we believe by next year you will start to see the fruition of the work that we've been doing. Reports are due November, pursuant to budget control language, and January under existing law and we will try to have them in at that time.

ASSEMBLYWOMAN ALLEN: Mr. Bontadelli, first of all I'd like to say I recognize this is an ongoing problem that's gone on over a span of years through several administrations. And I recognize, too, that this Administration, for whatever reason, perhaps because of legislative oversight, perhaps because of outside forces, perhaps your constituency, a lot of things have brought together, and at this point in time maybe the 27 million people, and the decline of the resource because times have

changed so much, but there's been a tremendous amount of pressure brought on the Legislature, by the Legislature, and other entities on the Department of Fish and Game, and I do recognize, when I first asked the questions two and a half years ago and didn't get answers, literally you had, and your director at that time told me that you did have, literally, dim light bulbs, pencils, and little green visors keeping books out of boxes.

Now, I recognize that you have come a long way, I seriously do. I recognize that there are those of us who want to see you go further, not because we want to pound on you or because we want to berate you in any way, but because we think accountability in government is very vital, very crucial, and in order to help you get there, sometimes the political pressures from within your agency are as difficult as those coming to you from without the agency. It is particularly difficult for me, being a Republican, to do what I've tried to do, really, not to hurt but to help. I think as we go over 2436 this afternoon we're going to see that. My questions and concern are, now that we are taking this really in-depth look at the Department of Fish and Game, in a healthy way, hopefully, in a way that will bring about good change, but now that we're doing that, these cost accumulation reports and how you develop it now will make the difference for the future in terms of how we go about..., you have an opportunity to do it right. You don't have the computer system that you need, and for all the reasons that you stated, because nothing was done prior to the last few years to try to bring this into being, into the twentieth century. And I'm not

saying that you aren't trying, and I know you are. But the point is there are some serious problems of monies coming out of certain funds currently that shouldn't be coming out of those funds, shouldn't be charged under 711 to those user groups, and in other cases where we find that some monies should be General Fund, some major, major problems that we really need to delve into with you, hopefully in January, before you go much further with this system I see developing here that looks so totally inadequate to meet the intent of 711 of the Code.

And that's all that I'm saying and all that I'm questioning. I recognize that you're trying and it has come a long way, even in the last two and a half years, from where you were when ...

MR. BONTADELLI: I thank you for your comments on our positive actions and I believe that Mr. Peace and his subcommittee totally concur with you by light of this specific budget control language that they've given us for the last two years in attempting to get here, and that in our process of working with the Leg Analyst and the Department of Finance I think we have agreed to some rather appropriate timeliness for providing that information. I apologize that the material you received was not all-inclusive and totally explanatory. We will do our best to try to provide you with everything we have, and I am hopeful that we will be able to have actually some face to face meetings rather than strictly requests for materials so we can sit down and go through and explain what we are providing, put it in context, determine what items it is that you

specifically would like us to include, because we are more than willing to cooperate with you, with this committee, either of these committees, the Leg Analyst, and the Department of Finance in attempting to clean up our act, as you indicated. And that is our goal and I'm glad that we share the same goal.

ASSEMBLYWOMAN ALLEN: And I look forward to sitting down with you eye to eye too. I think that would be an improvement. Some of the reports I did not get, I asked for a number of reports. One of them that I did not get was copies of the Department's invoices for purposes of hatchery food, obviously the Department's internal audit report on commercial fish taxes, the summary of the number of Tule Elk captured by the Department during the fiscal year '87-86, '86-'87, the total amount of funds budgeted and expended in each of those years for the moving of those elk. I did not receive the..., well, I understand they have come up now, a summary of the Department's '86-'87 budget allocation revenues by source and expenses related to the aquaculture program did not get that, and a copy of the Department's fish production report for the fiscal years '85-'86, '86-'87. Now, those are some of the reports I have not received. I have not received the monthly reports that I have requested, so my frustration in trying to prepare for a hearing and not getting those kinds of reports has been very, very high, and I would hope that we can for January, or whenever the next hearing's going to occur, sit down and go over some of those reports so I can ask you questions and give you an opportunity to respond.

MR. BONTADELLI: I look forward to the opportunity to go over as many as we have to provide to you.

ASSEMBLYWOMAN ALLEN: You don't have those reports?

MR. BONTADELLI: I have some of them. I do not have, necessarily, all of them in the precise manner. I guess, perhaps, it was our misunderstanding of precisely what you requested in the letter which we received on October 21. I have to apologize that between October 21 and today we were not able to generate all the reports in precisely the form and the direction you wanted. We will continue to work with you to address the issues.

For example, the Tule Elk, the total amount of money budgeted by Tule Elk is a line item in the budget under General Funds. You will then be able to look at the report which we documented which we will get for you, and I believe we will try to put them all together for you, and it will indicate precisely how many elk we moved. That's a report that is filed annually, I believe it is in January.

ASSEMBLYWOMAN ALLEN: And you don't have that figure? All I need is 200, 300, that's all I need you to say.

ASSEMBLYMAN HAUSER: Mr. Chairman, what does this have to do with enforcement of a written...?

ASSEMBLYWOMAN ALLEN: Well, basically, we're talking about reports. It was necessary...

ASSEMBLYMAN HAUSER: Commercial fishing laws and regulations?

Tule Elk, last I checked, are not a commercial fishing specie.

ASSEMBLYWOMAN ALLEN: Mr. Hauser, if you'll recall, the line of response that Mr. Bontadelli gave got into all of the area, and I'm responding to his testimony in that area.

CHAIRMAN COSTA: I have a suggestion, Mr. Bontadelli and Ms. Allen. If I might expedite our process here if you can indicate, Ms. Allen, a list of those reports that you've requested and have not received and let Mr. Condit and me know which they are in a letter and then we can reference the Department and the Department can then respond to you and to us as to what they're able to provide and what they are not able to provide for whatever reason and then we can go from there. How does that sound?

ASSEMBLYWOMAN ALLEN: Many of the reports I have asked for..., it's simply a question of...

CHAIRMAN COSTA: I know that, but I don't..., I mean, we could debate that for five minutes and that's five minutes less that we've got to testify in this area, and so I'm just trying to expedite our process. I want you to get that information. I think that's a process that will allow you to get the information and for the Department to respond.

ASSEMBLYMAN PEACE: Mr. Chairman?

CHAIRMAN COSTA: Yes, Mr. Peace.

ASSEMBLYMAN PEACE: Thank you, Mr. Chairman. That leads directly into one of the main points that I wanted to make. This whole subject area is ground which the Legislature, in its

capacity of reviewing the budget, has covered in the last two years, and the Department has made substantial progress. As a person whose background is principally in the area of accounting, to begin with, I would urge Mr. Bontadelli to keep in mind, as I've reminded him in the past, that moving from visors to computers is, in itself, not a solution to the problem. That pencil still works just as well as it did in the past and it's really a matter of how these delineations are made and what kind of decision-making is made about what the appropriate way of organizing that data is. Ms. Allen, I would also urge you to contact that Ways and Means staff. Most of the questions you've raised have already been dealt with by the committee and can be answered quite directly. You haven't availed yourself of the opportunity to talk with Allen Lind or the minority staff of the subcommittee, and I think they, in an hour, could probably catch you up to speed with the work that's been done in this area.

Some of the problems that have been created, particularly with respect to General Fund versus special fund, quite frankly, were created by the Legislature, and that is in part an effort on the part of those legislators who have attempted to protect funds from other legislators who shall remain unknown, unnamed, who would like to have everything in the "General Fund" category because they don't want to spend money in parks. They want to take it and spend it on welfare or whatever program that may be, without making a judgement about what's right or wrong. We just all have different perceptions of priorities. As a result, historically, the committees, as the

budgets have been put together on both sides of the Legislature, there's been an effort to identify as many Special Fund kinds of circumstances as we can, and over the years those special funds have grown, and they've frankly grown to be somewhat of a morass. The Legislature has to share responsibility for the fact that that has been a problem. I do not believe for a moment that this department could not have done, and as I've been, probably, less than polite about in the past, could not have done a better job of dealing with those special fund circumstances, but as I expressed before some confusion, not as to the importance of the questions raised but as to where you are heading.

The last issue, that I think is very important to understand when you request these documents, because they do deal with these various kinds of funds and how the Legislature has defined the limitation of the use of these funds and then how the legislators, in turn, have gone and said, "Well, I want to use this money for this," and the Department comes back and says, "You can't do that because the law says you can't do it," "Oh, yes you can, because this says this," and you know how we define these things. Many times the Department has responded to legislative directives and even the subsequent pieces of legislation where we have specifically funded programs that technically didn't meet the funding requirements under the original legislation, but in subsequent law we had delineated those special funds. In other times, where we have originally done legislation with General Fund, the Governor has stepped in and said, "No, I won't approve that with General Fund monies," or

Finance has stepped in and said, "I won't approve that with General Fund monies, but I will if you'll identify special fund monies." I don't want..., this has already, in my opinion, gone on grotesquely too long and I don't want to prolong it, but I would suggest that when you look at the documentation that you not only give yourself a long time to look at it from sitting down with it but you sit down with someone who has some specific experience and background in reading those budgets so you understand it.

As I say, I come to this with probably as strong an accounting background as any member of the Legislature, and I can't read those things by myself. I can when I have someone else with me to walk through and explain those different things. I'm getting better at it after a year of dealing with them day in and day out, but they are complex. They're more complex than they need to be.

CHAIRMAN COSTA: Part of that's our responsibility.

ASSEMBLYMAN PEACE: Part of it's our fault and part of that is an administration responsibility, and we are dealing with it. It began two years ago under Pat Johnston's responsibility as chairman of the subcommittee, and we were very aggressive with the Department a year ago, and I'm sorry that apparently that information didn't get to you. It should have been shared with you by those of us that have that area of responsibility that sometimes we do have a tendency and we're sitting here fighting with the bureaucracy but not communicating with our colleagues as much about the territory that we've already covered.

ASSEMBLYWOMAN ALLEN: The area that I have concern with, Mr. Peace, really wasn't....., I agree with you. Legislature has had a large role in this from that standpoint, because, first of all, 711 of the Code states users are supposed to pay for the management of their programs, and when you see things like selenium, capital outlay come out of the Wildlife Preservation Fund, and that is done at the last minute, the nth hour on the floor of the Legislature, and we appropriate totally, I guess, it's a total of \$280,000 for Wildlife Preservation Fund to build a selenium lab that was not created by sportsmen or commercial fishermen and yet those funds, that particular fund, are for their user purposes, that's inappropriate.

ASSEMBLYMAN PEACE: Well, let me give you a better example. There was the effort late in the session that, due to the good work of your colleagues on the subcommittee, Frank Hill and Ross Johnson and I'd like to think a little bit of work on my part, there was a tremendous effort...

CHAIRMAN COSTA: And from others.

ASSEMBLYMAN PEACE: Yeah, on Mr. Costa's part, particularly for his district.

There was the effort to use SAFCO monies for this Simutec nonsense, and no matter how good and wonderful Simutec may or may not be, it certainly is not an appropriate expenditure of SAFCO monies. But there was still the effort, and you know what? In past legislative years that would have happened. The Governor might have vetoed it, but I guarantee that legislation would have made it through this Legislature and been passed and

been on the Governor's desk, and if you go back over the past six years, both this Governor and the Legislature have consistently misappropriated special fund monies for what ought to have been general Fund expenditures.

CHAIRMAN COSTA: That's a continuing battle that's always happened...

ASSEMBLYMAN PEACE: The chairman in that area always has to fight that battle.

CHAIRMAN COSTA: ...trying to protect them, and the Ways and Means chairman feels differently.

ASSEMBLYWOMAN ALLEN: They're fiscal issues, basically.

CHAIRMAN COSTA: But they affect the part that we're talking about here, and that is where you fund these...

ASSEMBLYMAN PEACE: See, you asked a (inaudible) policy question of where the line should fall in terms of use and user fee oriented fees, and so that we have the balance. Precisely.

ASSEMBLYWOMAN ALLEN: (inaudible) the Gann Limit...

ASSEMBLYMAN PEACE: ...and we've invaded that territory as a legislature clearly. The Governor clearly has invaded that territory in each case in an effort to preserve General Fund revenues. Sometimes it may be Gann Limit. Before the Gann Limit the concern was building as large of an appearance of surplus in the General Fund. A big push, and I want to make it infinitely clear that that is an indictment that falls equally on both the legislative and executive branches of government, but clearly in the last four budgets that have been submitted, not only limited to this area..., see, that goes before my experience, Mr. Costa...,

CHAIRMAN COSTA: ...but, when I chaired Sub Three, I can guarantee, that occurred.

ASSEMBLYMAN PEACE: It was clearly an overt effort on the part of the budget submitted to disguise the size of reserves through number mechanisms, and one of those mechanisms was overuse and misappropriation, frankly, in my opinion, of special funds. Another way is, as we all know, we found out the hard way in the Medi-Cal, for example, is you simply understate what the costs are going to be then you come back and do a bill to fund it after the fact, but then, politically, you get to say, "I have a surplus."

ASSEMBLYWOMAN ALLEN: The bottom line on this particular issue, though, is if you're going to have the user fee, and you're going to increase a tax which is an increase in a user fee, in the last five years, from \$6.50 license to \$18.50 five years later, and you're going to increase that on an individual, under the guise of a user fee, then you should darned well make sure that that person..., and you're saying, "Well, the cost of management has gone up," you'd better make sure that that is the kind of cost that is actually occurring for that particular program, because what you're doing is you're increasing a tax to one segment of society.

ASSEMBLYMAN PEACE: There's no question about that. You will find that those who disagree with your perspective..., you have said there was something about a very strong sports side advocate, some people are very strong commercial side advocates,...

CHAIRMAN COSTA: It's the old battle between the sports first, the commercial, and are the sports subsidizing the commercial....,

ASSEMBLYMAN PEACE: Absolutely, and you will find....,

ASSEMBLYWOMAN ALLEN: It doesn't matter. That part's not important.

ASSEMBLYMAN PEACE: Well, sure, it's important, because you're perspective in terms of those..., increase in those fees would be that sports are being overcharged. I guarantee you that if you go out there they're going to make just as articulate an argument that the sports guys are being subsidized, and there's the argument that the commercial guys are being subsidized and then there's the argument that, you know, the commercial guys will come in and say, "We're paying too much to subsidize others." I mean, I've heard it all from all the groups. They all have a different perspective. They're all wrong. I'm right.

CHAIRMAN COSTA: I'm glad you cleared that up.

ASSEMBLYMAN PEACE: It's just a matter of perspective, and the only way, what you can do, is sift through those differing perspectives and try....,

ASSEMBLYWOMAN ALLEN: Well, I guess you missed the point, because the commercial fishing interests, as well as sport fishing interests, have to have us concerned about expenditure out of the Wildlife Preservation Fund, of moving of Tule Elk, which is a General Fund expense of \$600,000, moving the selenium which is a capital outlay of federally funded money.

ASSEMBLYMAN PEACE: I'm sure we can all hear the echo of the argument in favor of Tule Elk money. I mean there's probably somebody who can make an argument that it's an appropriate expenditure, and that's the business of being a legislator. They don't give it to us in two plus two equals four. They give it to us in these vagaries that we have to define what, in fact, we really meant by those things.

ASSEMBLYWOMAN ALLEN: So you don't believe...

ASSEMBLYMAN PEACE: Fortunately, that keeps us in employment.

ASSEMBLYWOMAN ALLEN: So, as the subcommittee chairman of fiscal, you're saying that you really aren't concerned whether it's misappropriation, or misallocation, or rather of funding, that doesn't concern you. If you (inaudible) to prevent a hunt...

ASSEMBLYMAN PEACE: Is that what I said?

ASSEMBLYWOMAN ALLEN: ...of environmental reports, if that is not an appropriate expenditure out of that particular fund, that does not concern you.

ASSEMBLYMAN PEACE: That's a value judgement, whether it is..., each time a proposal is made for whether something is an appropriate expenditure or not an appropriate expenditure, we have to look at it and say do we agree with that or do we not agree with that. The typical pattern has been, in our subcommittee, we have been much more rigid in our determination of what is an appropriate expenditure of special fund monies, and then in the full Ways and Means Committee under the influence of

members not to be referenced, those special fund allocations where we may have had General Fund money spent, have been moved into special funds.

Legislation which is moved out of Mr. Costa's policy committee is regularly amended in the full Committee on Ways and Means to take away the General Fund appropriation and to put special funds in when we, as a..., here we are as a group of members of the Ways and Means Committee, and when you have that opportunity you'll see what you're faced with, we then have a program which everybody supports, I mean a bipartisan support on, but perhaps neither the Governor nor the committee chair will support General Fund, being of this program, not only sports, but they have identified a special fund which Finance supports, the Legislative Analyst supports, etcetera. I have voted, in the past, for measures in terms of funding which I thought was squishy. I'm getting crankier and crankier about it, and we've been more and more successful in subcommittee, particularly, as I say, the first victory was this past year when we stopped the raid on the SAFCO monies, and make no mistake about it, it was an out and out raid.

ASSEMBLYWOMAN ALLEN: I'm familiar with the
(inaudible)...

CHAIRMAN COSTA: The system isn't pure, and at this point, I think, we need to break for probably some lunch, and we will come back and begin with those witnesses on the list that have yet to testify and go from there at 1:30. So, it's an appropriate time to break.

LUNCH BREAK

CHAIRMAN CONDIT: ...commercial fishing and law regulations. I'd like to..., we've completed with Mr. Johnston and I'm going to start in reverse order. I'm going to start from the bottom of the list and I'm going to ask Mr. Buetler, from United Anglers, to come forward. Is he in the audience? I need, when you come forward to be sworn in, I need you to identify yourself and if you're representing an organization please do so. The gentleman over here.

MR. RICHARD L. HUBBARD: I'm not Mr. Buetler, but I am speaking for him.

CHAIRMAN CONDIT: Okay.

Are we ready to swear this gentleman in?

MR. MOGER: Are you Mr. Butler?

MR. HUBBARD: I'm not. I'm Richard Hubbard, from the California Natural Resources Federation. I'm speaking for John Buetler.

MR. MOGER: Okay. Mr. Hubbard, will you raise your right hand, please?

Do you solemnly swear or affirm that the testimony you are about to give before the committee is the truth, the whole truth, and nothing but the truth?

MR. HUBBARD: I do.

MR. MOGER: Would you state your name, and for my benefit, would you spell your last name, please?

MR. HUBBARD: It's Richard L. Hubbard, spelled like Old Mother.

CHAIRMAN CONDIT: Mr. Hubbard, do you want to proceed?
Do you have a statement?

MR. HUBBARD: Yes, I would like to give the California Natural Resources Federation statement first because they are parallel and follow (inaudible).

CHAIRMAN CONDIT: Very well.

MR. HUBBARD: I am Dick Hubbard, the Executive Director of the California Natural Resources Federation, a state affiliate of the National Wildlife Federation, the largest conservation organization in the world with four and a half million members and supporters. We're one of the faster growing conservation organizations in this state.

Both the California Natural Resources Federation and the National Wildlife Federation strongly support, as a basic principle, the proper, professional management of all natural resources. We have serious concerns that California's natural resources are not being professionally managed in a proper manner. The fact that you're holding this hearing suggests that you and others share this concern. We noted that your agenda addressed very specific items and I asked that we be allowed to make a generic, rather than specific, statement.

We strongly feel that the specific statements listed on your agenda are symptoms of a much broader problem. California is probably the most politicized structure for managing its natural resources of any state in the Union. Using fish and wildlife management as an example, the Governor appoints a Secretary of Resources, the Fish and Game Commission, and the

Director and Deputy Director of the Department of Fish and Game. There's also heavy involvement of the Legislature in many management issues such as commercial fishing. Small wonder that most decisions are political, rather than professional. This is far from (inaudible). We're doing a study now to define the various models for fish and wildlife management used across the country. National Wildlife Federation staff is helping as is the Western section of the Wildlife Society, an affiliate of ours which is a professional organization for wildlife biologists.

We've also requested the original responses of the Assembly Office of Research's questionnaire sent out to gather information related to Assemblyman Campbell's ACA 44. At this early stage of our study, the best information we have comes from a 1982 report compiled by the Wildlife Management Institute working with the professional improvement committee of the International Association of Fish and Wildlife Agencies. I have attached a copy of the summary report and a printed version of my remarks for those who wish to delve deeper. Forty-six of a possible fifty-four states and territories responded. There are some interesting results.

Thirty-five of the 46 respondents have directors with degrees in fish and wildlife; nineteen had Masters, four had PhD's, and the remainder had Bachelor's. It's been some time since California has had a trained fisheries or wildlife biologist heading what is supposedly a professional organization. Our department has excellent professional biologists in mid- and lower levels. Our concerns center on what often appears to be a lack of professional orientation at the decision making level.

Of 24 states having fish and game management under consolidated organizations, such as our resources agency, 16 had separate directors, one for fish and one for wildlife, and four had one director for both fish and wildlife. All 16 directors of fisheries had degrees in fisheries and/or wildlife. Twelve of the directors had more than ten years of fisheries management experience. Of the 16 directors of wildlife, fifteen had degrees in fisheries and/or wildlife. Nine of the directors have more than ten years of wildlife management experience. Of the four directors occupying combined fish and wildlife positions, three have a Masters degree and one has a Bachelors in fisheries and/or wildlife as well as considerable management experience.

Comparing California to these figures, we don't shape up at all well. How do other states hire their directors? Of the 46 directors of fish and wildlife agencies, 25 are appointed solely by commissions, nine by administrators of large consolidated agencies, six by some combined action of a commission, governor, administrator, and only six by direct gubernatorial appointment as is true for California. We think that California's lack of a professional natural resource management structure is responsible for many of the problems you are addressing at this hearing and the loss of the respect and confidence of the people of California in our current natural resources management program. We think that it is time that California take a hard look at our natural resource management structure which is obviously not working nearly so well as we all desire, and make some changes.

Sweeping changes, such as brought about by a statewide initiative, can be traumatic. More gradual change, developed in a comprehensive fashion through the normal legislative process is undoubtedly preferable. We stand ready to assist in your legislative deliberations, but we insist that positive changes occur beginning with these hearings. The current system is a political anachronism that simply isn't working.

I can go directly into John Beutler's...

CHAIRMAN CONDIT: Any questions with that statement? I take it that your statement, when you talk about the Department being too political, you're directing that at the appointment of the current director, is that...?

MR. HUBBARD: No, I think it's much broader than that. What we've got in California is a four level, that's a Secretary of Resources, the Commission, the Director and the Deputy Directors. This reaches down to three different levels in the Fish and Game management structure, same as other natural resources. This is totally atypical of any other state in the Union. We see the ..., we're not talking about the appointment of this coming director, if there is an appointment. What we're talking about is determining, is taking a hard look at the basic structure, not taking politics out of it. This would be a naive hope, but blunting that politics so that it doesn't reach through the entire structure, that there's somehow a place in the structure where we have a purely professional approach, an ombudsman, if you will, for fish and wildlife. We see this happening. We've been very pleased, in the water quality

standard hearings for the Bay and Delta and the very strong statements that Fish and Game have been making. We urged this prior to the start of those hearings, but at the same time we're also concerned when we hear, maybe rumors but I doubt it, that behind closed doors there are now meetings between DWR, Fish and Game, and the state water contractors.

CHAIRMAN CONDIT: Mr. Hubbard, I appreciate your statement. We will take your statement and put it in the record. But, and I understand what you're saying completely. How do you think that relates to enforcement of commercial fishing rules and regulations?

MR. HUBBARD: Well, as I say, before the hearings started we called Mr. Costa's office and said we wanted to make a generic statement.

CHAIRMAN CONDIT: And he granted...?

MR. HUBBARD: And he granted that permission and when it came to deciding where, this was the place. I'm availing myself of what I think was Chairman Costa's...

CHAIRMAN CONDIT: Very well. Do you have a statement there from United Anglers as well?

MR. HUBBARD: Yes, I do.

CHAIRMAN CONDIT: And would you introduce who you're making that on?

MR. HUBBARD: I will. The United Anglers across California is cross-affiliated with California Natural Resources Federation, and is the state's largest fisheries conservation organization representing over 20,000 concerned anglers and citizens across the state.

We have reviewed the agenda for this joint hearing and appreciate the opportunity you have afforded to make the following comments. Again, these are generic comments.

After five years of working with the Department of Fish and Game on the mutual goal of achieving the highest quality of fisheries management possible under current conditions, we have a unique perspective to share with you. Many of the problems you have reviewed in the two days of this hearing have a basic underlying cause which gives rise to a great deal of dissatisfaction and conflict among the sports fishing community. This underlying cause is what we have come to call "the politicization of fish and wildlife management. We use this term to describe the fact that DF&G is part of the political structure of the state government because it must manage the people's fish and wildlife resources as a part of the Resources agency, and because the legislators' laws and scrutiny have frequently imposed very constraining political and budgetary limits on the Department. A host of management problems that have beset this department preventing them from properly managing the people's fish and wildlife resources. This, in turn is the underlying reason for a great deal of the public dissatisfaction. The Department has been empowered and charged with the responsibility for the wise management of our state's fish and wildlife resources. When their professional judgement is overruled and constrained by other branches of government, fish and wildlife decline. The public usually places the blame on the Department of Fish and Game because they didn't do their job. In

short, the public neither understands nor approves of the politicalization of the management process because of the sharp decline in fish and wildlife populations which have often resulted from this process.

Our organization has been working closely with the California Natural Resources Federation to find what is needed to properly address this just complaint. We strongly support the comments they made today. We will continue to work with them and all organizations which share our concerns to develop a responsible proposal for the next legislative session. We hope that the Legislature will see the wisdom in working closely with those groups who seek those changes needed to properly protect and manage the public's fish and wildlife. We urge you, as responsible leaders, to help us find such solutions as are needed to depoliticize the Department's management decisions as much as possible and to help build a department which can fulfill its public trust responsibilities for prudent and proper resource management.

Thank you for this opportunity to express our views.

CHAIRMAN CONDIT: Thank you, Mr. Hubbard. We appreciate your being here. Those statements are available to anyone who wishes to have copies of them. Thank you.

We're going to move on down the agenda. I'm going to ask Mr. Yeates and Mr. Bingham, who are both from the same organization, I believe, to come forward if they're here, make their statements, and then we'll find out if we have any questions.

ASSEMBLYWOMAN ALLEN: One of the things that I would like to do at some point, while we still have witnesses here to testify, I've never really been able to get into the California enforcement problems in the commercial fishing...

CHAIRMAN CONDIT: You'll have an opportunity to do that, Ms. Allen. I'm going to go through these witnesses who are on my list, and then I'll defer to you and if you have some additional people you want to bring up we'll have them come up.

ASSEMBLYWOMAN ALLEN: Well, the witnesses, basically, are people from within the Department and...

CHAIRMAN CONDIT: They'll be here. We're not going anywhere.

ASSEMBLYWOMAN ALLEN: I'm looking to see if the wardens are still here somewhere. Do we still have them here?

CHAIRMAN CONDIT: Are the wardens here? You're not going anywhere are you? You're going to stay with us for a while. We'll appreciate it.

Introduce yourself and you need to be sworn in, please. Would you please stand?

MR. MOGER: Are you Mr. Yeates?

MR. BILL YEATES: Bill Yeates, yes.

MR. MOGER: Raise your right hand please. Do you solemnly swear or affirm that the testimony you are about to give this committee is the truth, the whole truth, and nothing but the truth?

MR. YEATES: I do.

MR. MOGER: Would you state your name and spell your last name, please?

MR. YEATES: Mr. Chairman, my name is Bill Yeates, and I'm here representing the Pacific Coast Federation of Fishermen's Association.

CHAIRMAN CONDIT: Mr. Yeates, are you representing Mr. Bingham as well, or are you...?

MR. YEATES: Unfortunately, Nat Bingham couldn't make it today so I have his prepared statement.

CHAIRMAN CONDIT: Would you not read that? Would you submit that to us, and if you can give us your information without reading it we'd appreciate it very much. If you feel it necessary to read it, that's fine.

MR. YEATES: No, I'm not going to read it. You wanted twelve copies and if the Sergeant would pass it out, there...

CHAIRMAN CONDIT: It will be included in the record, and if you read your statement, if you could just paraphrase yours we'll include yours in the record as well.

MR. YEATES: Well, I guess my comments are just kind of a reflection of what has gone on. The concern I have is somewhat with the topic of this situation, is that we have, I think, as Mr. Peace pointed out, as Mr. Costa pointed out, and as I'm sure you're going to get more and more aware of as we look into this thing, a great deal of user groups interest in what's going on with the Department of Fish and Game through its enforcement and management, and it's not just limited to enforcement of fishing laws and regulations, even though this is singled out as if, for

some reasons this is unique, and I guess for my organization, they're somewhat offended by the fact that it is somewhat suggested by the way this thing is set up that there is a problem with just this segment of the fishing community.

I guess it gets down to the fact that if we want to resolve this problem there are things we can do. We could all blame the Administration, or we could all blame the Legislature, or we can all, among user groups, point the finger at one another. I think that really is counterproductive and I hope this doesn't become that, that we all agree that the resource is the Number One issue we all want to address and we want the Department to do the best job, and clearly, as pointed out by the chairman of the budget subcommittee and by Chairman Costa, this is something that's been ongoing for several years. Certainly, Director Parnell was involved, and I'm sure that Pete Bontadelli will carry that work forward. But there seems to be an element that simply wants to suggest that the commercial fishing industry isn't paying their share, and I would like at least to have the Department at some opportunity, if not now, to respond to the statement that the commercial permit, and I know you had an interest in that, it's only gone from \$40 to \$41, because I sat through endless meetings with my organization going over these payment increases in fees for all of the commercial fishermen, from the salmon fishermen to sword fishermen, to halibut fishermen. All took major increases and all have paid their fair share, and I think when you get right down to what was Mr. Peace's point, we can all sit around this table and point fingers

and say who's doing what but that really is kind of ridiculous because if we take the salmon resource, at what point do we say the salmon stamp, which raises about a million dollars annually by the commercial fishing industry, should be carved up between what is the recreational share. What point of a stream do we carve it off and say, "Well, no, this is the recreational interest. They should fund that." At what point is it a wild trout stream? I mean this is the kind of ultimate nitpicking that simply causes the user groups to, instead of working toward the protection of the resource, to fight among themselves while those that don't necessarily have the interest of the resource in mind can simply enjoy the fact that the fish and wildlife community is in such disarray that it's very easy to go to the Water Resources Control Board or the Fish and Game Commission or do whatever the hell they want to do to the resource.

So, I hope that when we focus on this thing our end result is that we want to have something that makes the Department better than it is, whether it's the need for more wardens, or whatever. And PCF of A, like any other commercial organization that's affiliated with..., and with the party boat organizations that's affiliated with..., are more than willing to sit down with the Department, with the Legislature, with the Administration, to work on this and we feel we have. We've made significant contributions and it is unfortunate that Nat Bingham can't be here because he travels all over the nation representing the salmon trollers on many issues that affect us and deal with the resource, and also puts in hours of time restoring streams

and working on restoration projects like many other members of the organization that I work for that commit many countless hours to restore the resource.

I've had the opportunity to represent both sport and commercial fishermen my first year in this thing, and as far as their care about the resource, there really isn't much of a difference. It's just a little bit easier, sometimes, for a commercial fisherman to come to some agreement as to how they want to deal with the Department of Fish and Game because their livelihood is at stake, and sports fishermen, kind of like a lot of other groups, can sit around and kibitz a little bit more before they come up with a decision. That's not to suggest that they don't honestly care as much as anyone else. It's a little bit more difficult. They have more of a diversity of interests.

So, I hope that this committee comes away with an understanding that commercial fishing industry is not, in any way, an anchor to the problems of the Department of Fish and Game. As a matter of fact, it was an odd situation for Sig Grader, Bingham, and myself to try to figure out how to deal with this testimony because we have some serious problems with the priorities that the Department sets forth and the way things are done with the Department. But at the same time, we aren't in the business, we don't think, of simply pointing the finger and trying to say, "Well, it's this guy's fault," or "It's that guy's fault." It's an issue that needs to be addressed and as has been pointed out, it's been something that has occurred over several administrations and let's get on with the business of solving the problem. That's all we're here about.

CHAIRMAN CONDIT: Yeah, I think that's what we're here about, too, sir. Ms. Allen, do you have a question or a comment?

ASSEMBLYWOMAN ALLEN: Yes, basically, it's definitely what we're here about, and certainly I would hope you don't take offense, because I know for one, my interest is zeroing in on the enforcement capability as it applies to commercial fishing laws in the Fish and Game Code. Certainly there are other areas of law enforcement as it pertains to enforcing the Code, implementing the Code, on inland, whether it be game or fishing, and including sport fishing. It isn't just commercial fishing that we're having difficulty with in terms of management within the Department of Fish and Game. I think your statement that the concern, and I think there's misunderstanding on this, the concern that the commercial fishing industry is not paying its fair share.

Frankly, if I had to respond to that, I'd have to say, "I don't know if you're paying your fair share," or sport for that matter, because we don't have accounting procedures in place within the Department of Fish and Game that would give us that information to determine whether or not you are paying a fair share, and hopefully Mr. Peace will be looking at that. That really is going to be his area as it pertains to the subcommittee, just on the quick scanning that I've been able to do with the information that I requested that I didn't receive until yesterday at eight, it would appear that there's no way to determine whether you are or aren't. I think the enforcement capability is a concern mainly because there's been more amount

of the complaints that have been coming in. That isn't an indictment on the commercial industry as much as it is on why aren't we enforcing current laws as it pertains to commercial fishing. I think that's a very legitimate concern from the standpoint of the constituency out there and the Legislature itself because there are laws on the books. They're not implemented and they're not enforced and it's very difficult to make that determination, if you're the bad guy, the Department's the bad guy, or there is not bad guy. But I think you have to at least implement and enforce the law to be able to make those determinations.

That's my interest in pursuing this area of the investigation today which is commercial fishing enforcement capability.

MR. YEATES: Mr. Chairman, may I respond to that?

CHAIRMAN CONDIT: Yes, you may.

MR. YEATES: I think, Ms. Allen, in regards..., there is your public expression and there is your private expression. I've received a fair number of letters because I am also a sports fisherman. I serve an awful lot of organizations and we've received mail in which you do a fair amount of a job of simply pointing a finger at the "giant" commercial fishing industry. Somehow we're stopping the enforcement of fish and game laws. So, I would hope that maybe your public statement, whoever you're making it to, because honestly the commercial fishing industry doesn't believe you, that means there's some change of heart, because...

ASSEMBLYWOMAN ALLEN: Well, there's no change of heart as regards your ability to influence legislation based on the fact of your very strong organized group that is in Sacramento, and there is no change of heart from the standpoint of my concern regarding your activities as they apply to what you're doing in the marine region. Now, that's not all commercial fishing. We do happen to know that there is a tremendous amount of illegal activity going on in the ocean as well, and we also know that there isn't enforcement taking place of some of the laws that are currently on the books, so from that standpoint you're right, but that doesn't mean that we still know, and I'm talking about the cost, now, the cost of implementing your program.

The costs of implementing your program are something, if you try to determine that from the accounting procedures that are prevalent or currently in existence in the Department of Fish and Game, there's not a record there that would say whether you're paying enough or not paying enough. We would suspect, based on the herring fishery and some other fisheries, that we do know based on, at least, Department documents that are in existence, that it isn't paying its own way. So, from that standpoint, you're right, but from the standpoint of saying, "Hey, you aren't paying your own way," in every situation as it pertains to the, what, what are you paying, \$1.2 million a year, in terms of your taxation and licenses versus the \$60 million a year the sportsmen do pay, I think we do have to take a look and see are you paying your fair share? Maybe you are. But based on the cost accumulation reports and other types of reporting from the time

reporting sheets to you-name-it, it's very difficult to determine if that is truly occurring, and that's my statement.

CHAIRMAN CONDIT: Okay, Ms. Allen, let's just see if we can move along, Mr. Yeates. If you...

Mr. Hauser has a question. Did you have another response? I don't want to get into this thing where you guys are responding and making statements. I would prefer for the Members to have direct questions to the witnesses, you respond, and we don't get into this long rhetoric about pointing the finger, as you say.

MR. YEATES: I agree.

CHAIRMAN CONDIT: Do you mind? Mr. Hauser, do you have a comment or question that you can direct at Mr. Yeates?

ASSEMBLYMAN HAUSER: I have a question, Mr. Chairman, which I would like to direct to Mr. Yeates. I won't get into the issue of wild accusations and unsubstantiated charges that are being made. My question actually goes to your original statement. Is it your concern and the concern of your organization that some of the accusations, some of the finger pointing, are simply being used or appear to be used to get us away from the real issues, the fact of the numbers of fish that are being lost at the Glen Colusa Canal System, and the numbers of fish that are being lost at the pumps, the real issues that are affecting the wildlife of California? Are those issues being detracted from by these accusations?

MR. YEATES: Well, that's certainly my concern is that we end up having the various users pitted against one another

while those that have a clear goal in mind which might somewhat have an adverse impact on the fish or resource can gleefully go ahead aware of the fact that the sport and commercial fish industries spend more time beating each other up than trying to address the question of resource protection. So, yeah, I think that is a serious concern. I'm more than willing to sit in any number of meetings of the PCF of A, and I'm sure the board of PCF of A will send members to sit down with the Department of Fish and Game and with the sport fishermen that we generally work well with to go over the whole question of what does the Department need and how much is our contribution if it's fairly laid out and legitimately looked at, but the point is that it's very difficult to do that and then when it's done under, at one time, a public expression that yeah, we're looking at this thing, and at the same time private letters are going back and forth raising money based on the concern that the commercial fishing industry is somehow ruining the resource, that does set a fair number of fishermen that are doing nothing more than spending their nonfishing time restoring...

ASSEMBLYWOMAN ALLEN: You're referring to the gill net initiative now, I think, not...

CHAIRMAN CONDIT: Just a minute. Ms. Allen, if you want to respond to him let's let Mr. Hauser finish first and then, if you care to, you can direct a question. I don't want to stop the discussion at all but I do think it ought to have some meaningful purpose. If you direct a question at him and he's got an answer, fine, but just making a comment, I don't think we achieve anything. Mr. Hauser?

ASSEMBLYMAN HAUSER: No. Thank you, Mr. Chairman, I've made my point.

CHAIRMAN CONDIT: Ms. Allen, you have a question that you want to...?

ASSEMBLYWOMAN ALLEN: I have no question other than that I would agree it would be best to look at issues and not be distracted by rhetoric. I would agree with that.

CHAIRMAN CONDIT: Okay. Mr. Yeates, do you have anything else? We appreciate your being here and appreciate your waiting. Okay, Mr. Kukuda, you're on next, and I would like to also ask you, you've been on once, if you could, and I know you will, restrict yourself to enforcement in commercial fishing laws and regulations if you will.

MR. KUKUDA: Yes I will.

CHAIRMAN CONDIT: You've been sworn in already, so we don't have to do that. You haven't forgotten that during lunch?

MR. KUKUDA: In fact, I would like to address some questions, in terms of testimony, that I believe you should direct back to the Department...

CHAIRMAN CONDIT: Well, that's why we started in reverse order. They're going to come up after you.

MR. KUKUDA: Okay. Number one, there was some testimony by....,

CHAIRMAN CONDIT: Can you bring that mike a little closer, and I would like to ask some of the Department people to pay special attention to these questions and you might respond to them when you come up.

MR. KUKUDA: Number one, with respect to the Department's enforcement of 8045, there was testimony that some shrimp processors paid under protest. Well, there are two tax rights that are to be applied. There was the incorrect rate of \$2.60 per ton and the correct rate of \$25 per ton. It is my belief that those who have paid under protest have paid the lower amount and are protesting the application of the higher amount. The testimony that was given, and I believe it was a question asked directly from you, Mr. Chairman, of \$100,000 under protest. Realistically, this should be one million dollars to the state. I think that should be clarified very specifically of what level did they pay the tax under protest.

The second question on that, I believe the letter that went out to them indicated that it was their portion to either pay the lower amount or the correct amount, which I find disturbing. That should be one tax according to the Attorney general's opinion.

The second question to ask: With respect to enforcement, again. We heard a number of boat names from the Marlin to the Hammerhead, how many boats are there in the Department right now? How many are operating and can actually be used in enforcement? I find it interesting that they're making a claim that within six years we're going to have a wonderful fleet. I suppose they just woke up yesterday and discovered the problems with the current fleet. I think this committee should ask when did they just wake up and find the problem.

Also, with respect to commercial fishing. A lot of these boats are not the small boats I suppose but they're very large boats, seventy or eighty footers, and I'm not familiar with all of them, how does that affect..., is that money allocated for their operation strictly on the commercial end, because I don't really see the need of an eighty foot boat to stop passengers when they're getting off of a commercial passenger fishing boat or the average sports fisherman, and so I think that's perhaps a question for the allocation, but again, if we're taking money from the sportsmen to pay for commercial enforcement, that's a particular problem that goes to commercial enforcement.

Another interesting question is, the Department seemed to have a hard time to understand if they needed wardens. They never really said yes. And I think we have to discuss, there is definitely a need for wardens. Let's get that settled once and for all, find out how many they need, and also, with respect to that again, what is the allocation of a warden's salary? How much time does he spend? I heard today a member of this committee indicate only 2% is spent on commercial fishing. Well, that's perhaps one of the problems with not enforcing the regulations that are out there.

Basically, what I also find interesting, this is an incident that occurred last weekend, there was a gill net that may have been illegal existing. I'll give you the example because I think we have to ask the Department what is the problem with calling in the enforcement. A gill net was existing on the 14-mile bank. Individuals were participating in a tournament.

We all spotted it. There was not a way on a weekend to really report this. When it was finally reported on Monday they sent a plan up and, of course, by that time it was gone. Effectively, I am under the impression that there is no real weekend enforcement in the commercial industry.

Also, we're told, you must call Cal Tip in Sacramento, even if the event that may be reported is in Southern California. I find that hard to understand. More important is that there is a real problem, I was told privately, to contact the state police but when I indicated, well, we should make that public, the problem I have with making it public, I was told, is the state police are dispatching to the Department of Fish and Game wardens on duty over the weekend, but if we get too many phone calls the state police will pull back and not make the service available. It's sort of an unwritten contract that they're helping out, right now, as fellow police officers. I find that enforcement basically nonexistent on weekends, and I believe the Department has to explain how those of us in Southern California can effectively report in possible violations and address that particular issue.

Those are the questions I believe the Department should respond to at the very minimum.

CHAIRMAN CONDIT: Thank you very much. I will, we'll have one of them come up and we'll reiterate some of those questions. We'll get some answers. Any questions?

Ms. Allen, you have a question?

ASSEMBLYWOMAN ALLEN: I think just the major question..., all of these need to be asked, obviously, of the Department, but the major question of when I did ask, I believe it was Mr. Toffoli, which rate was being paid on the \$2.50 or maybe the \$25, maybe we should re-ask that question of Mr. Toffoli. He indicated to me it was the full \$25 tonnage that had been collected on those who had paid under protest. We've already asked that. I would hope that that is accurate, because that is what he testified to.

CHAIRMAN CONDIT: Well, we can ask those questions in just a few minutes. We'll ask Mr. Bontadelli or whoever...

ASSEMBLYWOMAN ALLEN: Other than that I have no other questions.

CHAIRMAN CONDIT: I would like to, if I could, conclude with at least the witnesses on my list and then we'll come back to those questions. Is it Mr. Wictum, is here, who is a retired deputy chief, Wildlife Protection Branch. I don't believe you've been sworn in, have you? All right.

MR. MOGER: Mr. Wictum, do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. JAMES C. WICTUM: I do.

MR. MOGER: Thank you. Would you sit down and state your name and the spelling of your last name?

MR. WICTUM: James C. W-i-c-t-u-m.

Mr. Chairman and members of the committee, I think I first should preface my statement by saying that the agenda sort

of indicates that I am sort of associated with the Department. I'm not. I'm retired. I am not speaking for the Department. In fact, they may consider me something of a loose cannon, but I've just come before you to try to help you get a little historical perspective on what's happened with some of the marine enforcement.

Up until the 1960's we had an enforcement system that did not include a marine resources region. And the marine resources were handled, as they are now, as part of the regional responsibilities. This had some advantages, as has been alluded to already. It also had some disadvantages. I think the important thing was that there was a problem then, there was a problem when there was a marine resources region, there's a problem now, but it's not a problem of administration.

I've had the privilege of serving under eight different administrations and I will categorically say that this current one is the most effective, and I don't owe them a thing, but it is the most effective administration that I've had the privilege to work under. If there's anything that you'd like to know specifically or would like to ask me about marine enforcement, as I know it, which admittedly is only in the northern part of the state, I'd be more than happy to try to respond to you. Also, I helped to set up the Special Operations Unit.

CHAIRMAN CONDIT: Any questions? Ms. Allen, you have...

ASSEMBLYWOMAN ALLEN: I would hope that when we do call up the other witnesses, wardens, to ask some specific questions that you would join them.

Maybe it would be best to ask you questions at that time, rather than to recover ground.

CHAIRMAN CONDIT: Would you be available for that, sir?

Mr. Costa has a question.

Will you be available? Will you be around for a few minutes? I'm going to call the other witnesses up. Would like to do that?

MR. WICTUM: All right. Fine.

CHAIRMAN CONDIT: Mr. Costa?

CHAIRMAN COSTA: Yeah, Mr. Wictum, you've been around, as you said yourself, a spell. There have been a lot of charges that have been made as it relates to an old boy or good old boy system with the wardens and various aspects of both the sports and commercial interests in this state, and you heard this morning, you were here this morning...

MR. WICTUM: Yes, I was.

CHAIRMAN COSTA: ...as to the practices before 3081 was implemented and since, and the reorganization of the Department's attempt to go forward. How would you best describe, or how would you comment on, I guess, some of those allegations that have been made as it relates to charges of the Department? Now, we all know, the Department needs more wardens and whether it's the Acting Director or whoever else the Governor places there, unless we can convince the Governor that this is a higher priority than some of the other areas we're looking at, I don't think much is going to change there. And as to compliance, you know, you're only going to get as much compliance, I think, as you're able to

have law enforcement personnel, frankly, and to the degree you've got some good faith with the commercial interests and you have a system that seems to have some integrity the people respect. But, the comments about cronyism, about people doing a good job. I went through the surveys that were done last year, I don't know how familiar you are with it, there were a lot of concerns by biologists and wardens and others, about politics that get involved, or that intercede in Department decisions. Do you think there is more political interference taking place today within the Department than in years past?

MR. WICTUM: No, I think there's less. I think that when I first came on the fixing of tickets was a very small item but it was a fact of life, but it was not a necessary fact for anybody. Nobody fixed my tickets nor did I ever fix a ticket, but it did happen. I think it happens a lot less now and as far as the decision process is concerned, I think again that there is less political influence now than there was. I think there is more of an objective commitment to resource this time than there was thirty years ago.

CHAIRMAN COSTA: And how about the comments about the allegations that the good old boy network as it relates to the enforcement of the commercial interests? What would your perspective on that be?

MR. WICTUM: I don't think that this was ever an extensive problem. But I think that it did exist. Particularly, I believe, in...

CHAIRMAN COSTA: Region Five?

MR. WICTUM: Well, yes, and to a certain extent at one time in Region Three.

CHAIRMAN COSTA: Do you think that's largely been eliminated?

MR. WICTUM: Yes, I do. I think largely it was a matter of individuals involved and these individuals are gone...

CHAIRMAN COSTA: Those individuals are no longer there?

MR. WICTUM: And haven't been for quite a while.

CHAIRMAN COSTA: What do you think the biggest problem today is with the Department of Fish and Game that we could do something about?

MR. WICTUM: Lack of personnel. We're short of wardens, you know. We've talked about the fact that we may have gained six positions and setting up special operations, which has been a big plus, but at the same time we have to think about hours too. We've had this (inaudible) problem which the wardens have had to go from what was traditionally a twelve hour day to an eight hour day. You see the loss that we've had there in just being able to put people in the field. And this is a major problem. Traditionally, the wardens worked a twelve hour day and did it happily and donated their time. Now they can't do that anymore, and this cuts into enforcement posture.

CHAIRMAN COSTA: Are you familiar with the incentive pay concept in Southern California for wardens?

MR. WICTUM: I think it's an excellent idea. I think anything that would help to keep more of the officers in Southern California and eliminate this constant vacancy problem that they

have down there would help a great deal in enforcement and commercial regulation.

CHAIRMAN COSTA: What do you think creates the warden vacancy rate problem?

MR. WICTUM: Oh, I think most wardens come on and they all have a vision of...

BLANK TAPE: MALFUNCTION OF EQUIPMENT

MR. SAKAI: ...the amounts paid under protest represent the differential between the 13 mil per pound rate and the penny per quarter per pound rate. The businesses that previously paid at the 13 mil rate, we came and assessed them for the difference between that and the penny per quarter rate.

ASSEMBLYWOMAN ALLEN: Would you talk about \$2.60 versus \$25. I think when we talked the other terms, it doesn't come into the dollars, I mean you're talking about percentages of a cent. I mean, would you talk...?

MR. SAKAI: Okay. Twenty-five dollars per ton versus \$2.60.

ASSEMBLYWOMAN ALLEN: So you're saying now, would you say that to us in another way, the amount of money that you collected under protest that were paid, supposedly in full, to the satisfaction of the Department was at which rate, the \$2.60 or the \$25?

MR. SAKAI: It's the difference between the \$25 and the \$2.60.

ASSEMBLYWOMAN ALLEN: Why?

MR. SAKAI: They had previously paid the \$2.60.

ASSEMBLYWOMAN ALLEN: Oh, I see, so you're saying they only had to pay the difference between the \$2.60. All right.

MR. SAKAI: That's correct.

ASSEMBLYWOMAN ALLEN: But that is what you collected?

MR. SAKAI: Correct.

ASSEMBLYWOMAN ALLEN: Thank you.

MR. BONTADELLI: The next issue that I believe I had on the item is one that I'll attempt to take. It specifically concerned a letter that went out in 1985. At that particular time we mailed to all of the shrimp dealers a letter that basically said, you have traditionally paid at this rate pursuant to what you have done in the past. We have currently requested an Attorney General's opinion. A preliminary reading from the Attorney General indicates it is at this higher level. Until we have that opinion, you may pay at either level. If the Attorney General's opinion comes in, as it did, at the \$25 per ton, you will be obligated to pay at that entire rate, so during that period of time when we were clarifying what had been the past practice, what was in fact later determined to be the correct practice pursuant to the AG's opinion, we notified them that this was in process and gave them the option of paying it, either telling them that we would by either rebate or collect pursuant to the Attorney General's opinion.

The other issue is one that came up just to clarify relative to the suit.

CHAIRMAN CONDIT: What you were just speaking to, Mr. Bontadelli, was that they had the option to pay \$100,000 or a million dollars?

MR. BONTADELLI: No, a hundred thousand would be at \$25 a ton, so it would be about \$50,000 to \$100,000 for those particular...

CHAIRMAN CONDIT: I think those were the numbers that we used. Just answer the question.

MR. BONTADELLI: The other one is the question of the amount that's still outstanding. I will indicate that there were numbers that Mr. Costa gave that came out of the Auditor General's report. We will stand by those, although quite honestly, I believe that as we do a little more detailed looking a couple of those are up and a couple of them are down. The exact levels, currently the question is under settlement and that's what Mr. Toffoli was referring to, and therefore that's why he didn't give you anything more specific. I will stand by those in the Auditor General's report until such time as we finally come to the adjudication relative to the suit and then we'll collect at that level. I might note that basically what happened is Mr. Kukuda filed the suit, as he indicated, against the Department to bring full compliance with Section 8045, which he claimed we were incorrectly enforcing. His point of view was effectively concurred in by the Attorney General's opinion and part of it was basically moot with the passage of 3081 in terms of historic practice.

At the end of that period of time, after 3081 was passed, the shrimp processors whose section had not been addressed in the same manner as the general question of 3081, chose to intervene in that suit because they were then left as the only ones with a case at interest in terms of the form of collection under 8045. Therefore, at the current time, we have as parties and interests, the Department, represented by the Attorney General, Mr. Kukuda, and the shrimp processors who are involved. And there have been discussions back and forth relative to settlement, there is a time-frame on that, I believe the Attorney General indicated a two-year time-frame. Some people paid under protest. Some have not paid. It is my hope that by early January we can get all three parties to come to the conclusion that either, A, we will be able to settle, or B, we will not and go forward to trial and resolve it one way or the other. I'm hopeful that that will occur by January.

That, basically, in my estimation is a summary of the status of the suit in this point in time. If it's expanded by any of the parties, I feel more than comfortable that we'll wind up in court and deal with it there.

CHAIRMAN CONDIT: Does that conclude those questions?

MR. BONTADELLI: That first set.

CHAIRMAN CONDIT: Do you have a question, Ms. Allen on that?

ASSEMBLYWOMAN ALLEN: In that same area, did you determine why, as a department, some were paying \$2.60 and some were paying \$25. Why was the Department billing at two different rates?

MR. BONTADELLI: I'm not sure that the Department was billing at all. Some people had asked and gotten clarification at one point in time from some of the people working for the Department which led them to believe the \$13 per ton figure was accurate, and that happened at some point a long time ago that I will not speculate as to how or why.

ASSEMBLYWOMAN ALLEN: Thirteen or two?

MR. BONTADELLI: Two sixty, excuse me. Two sixty. After carefully reading the code we came to the conclusion that the \$25 was probably correct. That's the internal task force report that Mr. Kukuda referred to, the internal document.

ASSEMBLYWOMAN ALLEN: How long was that taking place, the \$2.60 versus the \$25? Over what span of years?

MR. BONTADELLI: It started somewhere in the seventies, and continued forward until our internal unit group task force, which was appointed by Director Parnell came forward with the information in late '84, I believe December of '84, and brought it to his attention.

ASSEMBLYWOMAN ALLEN: That was your fiscal officer at that time?

MR. BONTADELLI: I don't know exactly who it..., there some indications from notes it may have been an auditor who used to work for us. I quite honestly, that's an issue that I felt, from our standpoint, at the time when I was working as Chief Deputy, and Mr. Parnell did, that it was better to address the issue and resolve it, rather than determine who, at what point in history, may have made an error in the past.

ASSEMBLYWOMAN ALLEN: I think the only important...

MR. BONTADELLI: That was how we proceeded forward.

ASSEMBLYWOMAN ALLEN: I think the only important question remaining on how that can happen is if you were billing fish dealers and you have a fiscal department and you have accounting procedures and you're billing and you're taking the same law and you're giving a different application to it, why wouldn't a fiscal officer, whoever is billing, what is the breakdown in your procedures, that would create a situation where you wouldn't pick it up?

MR. BONTADELLI: Let me clarify, it is not a question of billing. It was a question of them reporting on their landing reports and then multiplying by the rate and coming up with an answer.

ASSEMBLYWOMAN ALLEN: So you're basically taking their word for...

MR. BONTADELLI: It's essentially the same as the IRS or any other major tax collection agencies do and then you have an audit staff that goes back and attempts to check and go through it. We're no different. Our audit staff had been one up until three years ago. We now have a large audit staff of three, which for our standards is large. We are doing, quite frankly, the best job I think we can with the number of people we've got.

We've also, as Mr. Sakai indicated, established some very rigid uniform procedures, to ensure that the Department as a whole is, in fact, going forward and enforcing it in a uniform, consistent manner that has been agreed to by all our varying

units: wildlife protection, licenses, audits, and if we've had any clarification either through legislation or the Attorney General, that has been added to the equation, and we now have standardized training as Mr. Johnston referred to.

The next issue, if I may move on to another issue, or if you have more questions....

ASSEMBLYWOMAN ALLEN: Well, just one more question. Once..., how did you determine who..., in other words, there were some fish dealers who weren't even paying at all, some in that same area, let me ask you the question basically. Are there still some that may still never have paid, mainly because they never sent out a report? Did you search to see if that was the situation or did you just check those who had already been, on their own volition, sending in money based on their landings?

MR. BONTADELLI: We reviewed all of those, first, that came at issue, which was the differential, which was what we first reviewed. In the process of that we reviewed some others to determine if shrimp were being processed in terms of reports that we otherwise had on file. It was during that process that we determined that there was one additional shrimp dealer who was also audited in the process.

There is, if you're asking me is it possible that there is someone else out there, the answer is yes, there may have been at the time. What we basically did is look at all the major companies still in business today and deal with...

ASSEMBLYWOMAN ALLEN: So you did look at those?

MR. BONTADELLI: Yes, that were dealing in shrimp, and that's what we have looked at, and if you want the details on that Mr. Sakai has written a detailed report on the stages and processes for going back and finding those. That has been established.

The next issue that Mr. Kukuda raised was the question of the fleet. When did it come to our attention and so forth? I'm going to defer that to Mr. Johnston.

MR. JOHNSTON: Well, as it relates to the patrol boat fleet, we've known for..., you know, the boats are getting older and they're starting to cost us more money and we put more money in the budget for a couple of years running and immediately realized..., well, not immediately, but a couple of years ago, realized that we had a difficulty with our patrol boat fleet. They were getting old, they were getting worn out, but at the time we were in the midst of the Department of Finance telling us that the Fish and Game Preservation Fund was in deficit, so it really wasn't appropriate for us to be going out trying to spend money that we didn't really have.

So, when we..., the first chance that we had was during this current year's budget process. We had some money, we felt we were going to have the money to be able to start a replacement process, we went to the Governor's Office with our request, and it was included in the budget, the Governor's budget. The boats, our fleet's basically fifteen to twenty years old, and it's just in need of being replaced now.

ASSEMBLYWOMAN ALLEN: So you didn't really make the determination, based on that question, you didn't really make the determination that your boats were old until you had a deficit year.

MR. JOHNSTON: No, no, we knew that our boats were old and we knew that our boats were a problem but the problem was finding the funding to replace these..., you know, expensive boats.

ASSEMBLYWOMAN ALLEN: Did you come to the Legislature with a proposal to do that?

MR. JOHNSTON: We did not until we felt that we were fiscally solvent and had some kind of meaningful chance to get those boats.

CHAIRMAN CONDIT: May I ask you a question? It's obvious, you know when you bought the boat, you know the boats are old, you know you've got to replace certain things every so many years, do you not have, and do you have now, if you didn't, a replacement plan that's in term? I mean, so that you don't have to come to the Legislature. You shouldn't have to come to the Legislature.

MR. JOHNSTON: Yes, we have established a replacement plan. We've got an ongoing replacement plan that I outlined in my opening remarks on the issue, and the...

CHAIRMAN CONDIT: That means that every other year, you're going to buy a new boat, or you're going to replace it?

MR. BONTADELLI: If I may, Dewayne? What we have, basically is a situation that, where the Department as a whole,

during the time basically starting with Prop 13 on, the Department, like probably some others, made some determinations that it was appropriate when we had cash to put it into things like programs and people rather than capital outlay, not unlike some other activities. Equipment, including vehicles, radios, and patrol vessels were among the things that were basically frozen for a period of years within the Department and done with minimal replacement as needs be. One of the things that we are in the process of doing is establishing a straight depreciation and replacement schedule for 100% of our equipment. In the past three years, even starting in the deficiency year, we prioritized at that point and said that the most significant thing we could do was to put in new radios for our wardens, therefore, we put as a priority obtaining radios because we had had a warden who was shot and left for a period of time unable to communicate. We felt that therefore we needed to get radios. That became a top priority and was an augmentation, even in the deficiency year that we went in that direction. Last year we had, we came to the Legislature and requested money when we had some cash in the fund to go ahead and replace a vehicle, vessel. In reality, and this is a confession I wish Mr. Peace were here to hear, we actually asked for and received money for one vessel. However, due to the depressed oil market, we were able to make a deal and we actually have two vessels and we will be coming back in this year's budget for the balance payment due on both vessels. We bought two because they were available and our fleet was depreciating at a slightly accelerated rate. We are also going for, now, a

deficiency funding because we have money to get a new one. We are going to a standard replacement schedule.

CHAIRMAN CONDIT: Okay. To kind of move this along, we're all not going to agree on everything you say and we know that and I don't think it's incumbent upon us every time you say something to respond back we don't agree with you. It just seems to me you've got a vessel plan, we can request that if any of us have any interest in it. It seems to me the vessels are somewhat like..., and I'm a novice, I'm not on Mr. Costa's committee, but it seems to me that it has something to do with the safety of our personnel not to receive some sort of priority in terms of keeping them up to speed for safety reasons for the people that work for us. I mean, that seems to me that ought to be a concern of ours.

Mr. Hauser has a question. I don't think we have to dwell on this unless somebody sees something that I don't see here. Mr. Hauser?

ASSEMBLYMAN HAUSER: This is very quick. Are the patrol vessels used for commercial law enforcement, sports law enforcement, biological research and monitoring, or all of the above?

MR. BONTADELLI: All of the above.

ASSEMBLYMAN HAUSER: Thank you.

CHAIRMAN CONDIT: Mr. Costa? Oh, okay, let's finish the questions.

MR. BONTADELLI: The other question was a point of size.

CHAIRMAN CONDIT: You go out 200 miles, you've got to have a certain size.

MR. BONTADELLI: ...200 miles. I believe Mr. Johnston addressed that in his statement.

The next one is the need for wardens. I think we've (inaudible) that well.

CHAIRMAN CONDIT: Everybody agrees with that.

MR. BONTADELLI: The next question was weekend law enforcement and dispatch in Cal Tip. I'll refer both of those to Mr. Johnston.

CHAIRMAN CONDIT: Mr. Johnston?

MR. JOHNSTON: Basically what the Department has on a weekend system is we just recently moved our Cal Tip phone to our Region Three office where we have a regional dispatcher who's available during the weekend. And that may sound like a cumbersome process to a person to call in, but what it is is a toll free 800 number that they can call our Region Three office and our Region Three office can go about getting some people out there to do the enforcement that's necessary.

So that, like I said, it may seem cumbersome that you're calling the San Francisco area, but we have a very talented and skilled dispatcher up there who knows how to get a hold of our people.

CHAIRMAN CONDIT: You know, you're disputing what was said, that you can get someone out on the weekend to look into a complaint?

MR. JOHNSTON: I believe you can get someone out on the weekend to look into a complaint. In addition to that, and the concern is to the state police, but we also work very closely with not only the state police but the local sheriffs' departments, ...

CHAIRMAN CONDIT: You're carrying those people as part of your response to the weekend complaint?

MR. JOHNSTON: Well, I'm saying..., Mr. Kukuda's question was how to get hold of somebody to enforce fish and game laws in Southern California. Call the local police department and the local police department will generally know how to get a hold of our enforcement personnel. Our weekend dispatcher in the southern area is through the state police, and to the best of my knowledge they have been very responsive. We do have problems with them from time to time and when we put a special detail together we will put our own dispatcher on duty during the weekend, but they are responsive if you've got some kind of concern that needs to be addressed on the weekends.

CHAIRMAN CONDIT: Okay. I think you've gone down the list. If anyone disputes the answers we will take that up at a later time. Thank you very much.

Mr. Costa had a couple of questions, I believe, to Mr. Bontadelli.

CHAIRMAN COSTA: I'll try to go through these quickly. The hearings that we had a couple of years ago were productive in the sense that I said then, as I say now, we'll let the chips fall where they may and take what suggestions we have and go from

there. Out of that came Felando's measure 3081. Out of that came Doris Allen's measure which was AB 2436, and out of that came Kelly's measure AB 617. For the press that's out there and is still listening and wonders what we do at these hearings, I'd like to ask some quick questions that might also produce some other similar legislative finding next year. One, has the Department identified where we need to possibly shift some of the warden resources given the demands upon both the commercial and sports fishing interests of the state, whether or not we need to be making any shifts in that limited resource that we've all determined?

MR. BONTADELLI: We basically are looking at using or expanding our Specials Operations Unit which give us a little flexibility of movement...

CHAIRMAN COSTA: Kind of your SWAT team, for lack of a better term?

MR. BONTADELLI: Right. Which give us some movement around the state rather than assigning specific locations, and also we are looking at expansion to ensure that our vessel fleet that we are upgrading is fully staffed. Those are the two main areas of first emphasis.

CHAIRMAN COSTA: Has the Department given any statistics on your success rate in terms of convictions? Any that I missed while I was out? What has been your success rate in terms of convictions?

MR. BONTADELLI: We have a success rate above 90% the last time we looked at it, but it's not something that we look at...

CHAIRMAN COSTA: Is that broken down between sports and commercial?

MR. BONTADELLI: No, I think that's pretty consistent across the board.

CHAIRMAN COSTA: Across the board? Could you provide the committee with that information after this hearing?

MR. BONTADELLI: Yes.

CHAIRMAN COSTA: Okay.

Has the Department identified what you're doing to alleviate the question I asked Mr. Wictum earlier, and that is the warden vacancy rate?

MR. BONTADELLI: Yes, we have taken...

CHAIRMAN COSTA: You have taken babbling brooks to Southern California?

MR. BONTADELLI: We are trying to take several steps. First off, the question that you raised on the incentive pay is one that has been up with a multitude of departments. To date, that has not been proven something that DPA and the Personnel Board and a lot of other agencies have been willing to look at, so we're having a little bit of trouble convincing them that that makes sense.

CHAIRMAN COSTA: So you don't have a plan or a proposal for incentive pay?

MR. BONTADELLI: We are working with DPA at the current time to find out what we can, in fact, offer in the collective bargaining. The next issue is the question of vacancy rates. I believe the Auditor General specifically recommended and we are

instituting testing in Southern California to try to recruit people who are, in essence, southern Californians and hope that they will, therefore, stay in the area.

The next thing that we're in the process of doing is any idea that Mr. Johnston brought forward, is that we're going to a concept of attempting to find out whether it is legal for us to establish a permanent intermittent force using some of the vacancy time-frames, which would allow us to effectively hire people as permanent intermittents, and then as a vacancy occurs, move them directly into it so that we are recruiting and training in advance. In addition, as Mr. Johnston said, we have just gone to a single post academy that we'll be sending all of our people to that we're doing in cooperation with an existing one at Napa College.

The other thing that we've gone into is the FTO program of more thoroughly training our people and then trying to convince them through that process that it's worth staying in some of those locations. But I anticipate that we, like several other departments, will continue to have some vacancies in the high cost of living areas.

CHAIRMAN COSTA: If DPA works out, then you will offer the incentive pay?

MR. BONTADELLI: That's correct. We're looking at what options we may have.

CHAIRMAN COSTA: For the life of me, I don't understand why wardens are paid at a lower rate than other comparable law enforcement officers, other agencies in the state such as the

CHP. You want to take a crack at that? I mean what are we doing with the disparities?

MR. BONTADELLI: I'm not sure I can give you a very good answer on that. I will tell you that there was, in fact, a study done some years ago by the Department of Personnel Board that indicated apparently, and I'll tell you how it would be today, that there was a feeling that our people received a psychic benefit, to use a term from a previous administration, therefore we didn't need to pay them comparably. And that was the last study that I'm aware of comparing our wardens to others.

ASSEMBLYWOMAN ALLEN: (Inaudible).

MR. BONTADELLI: I'm merely telling you what I believe the study found at that point in time. I don't think it's been done in several years.

CHAIRMAN COSTA: I've had voters reference that we receive psychic benefits, as well, for this job.

We're still underpaid.

The disparities, obviously, exist. I mean, reading some of the questionnaires that you provided over the weekend, one of the wardens indicated that he had, for his particular discipline, he had to have 60 units of college education and other background and training and he cited what was comparable to some of the other law enforcement agencies in the state that had to do a lot less in terms of formalized education or training, yet his schedule level, and he compared it, was much different and you add that ... no wonder you have problems keeping people in Region Five and areas where you have high costs of living.

So, you're not trying to address that in some fashion. You have no proposal to try to come up with some parity or something with other states' salary areas?

MR. BONTADELLI: I believe you'll find that most of the salaries are now addressed for collective bargaining and that Unit Seven has been fairly aggressive in presenting a series of demands through that process. They have not been as successful as they would have liked.

CHAIRMAN COSTA: There was going to be a reference to it, and I'm not so sure I quite caught it, Pete, and maybe you're not the person to respond to it, but the mess-up with the Cal Tip program, what is the Department doing to correct the errors, and if you've responded to that already then I'll just catch it in the testimony.

MR. BONTADELLI: You're referring to the funding problem?

CHAIRMAN COSTA: Yeah, the big mess-up where the merger with Crocker and Wells Fargo and they forgot they had an account...

MR. JOHNSTON: When Crocker National Bank sold out to Wells Fargo National Bank...

CHAIRMAN COSTA: Yeah, we know the problem. What are you doing to correct it?

MR. JOHNSTON: Well, basically, we've gone over and met with the Wells Fargo people a couple of times and got their attention a little bit and hopefully have made them aware that they do have a Cal Tip fund so that when they get the Cal Tip

checks they won't send them back "Return to Sender, No Such Person" and those kinds of things, and we've got the post office box, and we're reprinting our brochures....,

CHAIRMAN COSTA: How much is in the fund now?

MR. JOHNSTON: The last accounting, approximately \$15,000.

CHAIRMAN COSTA: All right, thank you very much, Mr. Chairman.

CHAIRMAN CONDIT: Thank you, gentlemen. I'm going to ask Mr. Johnston to stay there. I'm going to ask Doug Messert, Chris Wright, Mark Haywood, and Pete Smith to come forward, please.

Both of you gentlemen can stay there.

MR. JOHNSTON: Mr. Chairman, Mr. Haywood is on vacation and we were unable to get hold of him for the hearings.

CHAIRMAN CONDIT: Well, that's acceptable. Okay, those of you who have not been sworn in, would you please stand up so that you can be sworn in, to state your names to the gentleman over there to my left.

MR. MOGER: All right, gentlemen, your name.

MR. CHRISTOPHER WRIGHT: My name is Chris Wright, W-r-i-g-h-t.

MR. MOGER: Mr. Wright, would you raise your right hand? Do you solemnly swear that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. WRIGHT: I do.

MR. MOGER: And your name was Chris? Is that your full name.

MR. WRIGHT: Christopher Wright.

MR. MOGER: Christopher Wright? And the other gentleman is...?

MR. REED SMITH: Reed Smith.

MR. MOGER: Would you raise your right hand, Mr. Smith? Do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. SMITH: I do.

MR. MOGER: And your full name is Reed Smith?

MR. SMITH: Yes.

CHAIRMAN CONDIT: Mr. Cribbs, would you also please come forward and join this group up here?

I called Mr. Mercer up? Mr. Mercer?

MR. JOHNSTON: I haven't seen Mr. Mercer and I can't tell you where he is.

CHAIRMAN CONDIT: Okay, Mr. Cribbs, you've already been sworn in and do you gentlemen have statements or are you here to respond to questions?

MR. WRIGHT: I'm here to respond to questions.

ASSEMBLYWOMAN ALLEN: At my request, they'd be here to respond to questions.

CHAIRMAN CONDIT: All right, Ms. Allen, do you want to lead with questions?

ASSEMBLYWOMAN ALLEN: Yes, I'd like to set the stage for what I'm going to be getting into a little bit. One, there have been allegations that because of poor administration, lack of enforcement personnel, and inadequate equipment the Department is not enforcing commercial fishing laws at an acceptable level and therefore fish and wildlife resources are being adequately protected and revenues are being lost to the Department.

In summary, in 1986 the Department reorganized its regions to eliminate the Marine Resources Region. The administrative management and enforcement responsibilities of the Marine Resources Region have now been absorbed into Regions One and Three and the Department's ability to adequately enforce fish and game laws in the marine resources area. There has also been an obvious deemphasis on enforcement of commercial fishing laws. Land wardens lack the knowledge and the expertise to enforce commercial fish laws, and as a result violations involving illegal take of marine resources are high. In addition, wardens lack the correct equipment to safely carry out their enforcement activities. They are precluded from working the necessary overtime to enforce fish and game laws.

Passage of 3081, Felando in 1986, eliminated the tax on imported fish and fish products. We go into this a little earlier. The commingling of California landed fish and imported fish precludes effective law enforcement, especially with respect to the assessment and collection of commercial taxes. A number of warden contacts with commercial fishermen, fish buyers, wholesalers, processors, canners, receivers, importers and retail

markets has declined sharply in the past two years based on records obtained from the Department.

For example, the following summary shows the overall decline in the number of citations issued by the Department's enforcement personnel during the period 1983-1986, and from 1983 to 1986, let's start with 1983, for instance. There were 430 citations of commercial fish citations. In 1986 there were 206, based on documents obtained from the Department. And the decline has indicated that there have been fewer looks into the commercial markets. The reports from DFG enforcement personnel that uncertified fresh water clams are being marketed in California, that illegal abalone from the North Coast are being marketed in San Francisco Bay Area, that short lobsters are being marketed in Southern California, that the Department's wardens are not currently adequately monitoring the commercial fishing industry's operations and that for some businesses wardens have been instructed to back off their enforcement of commercial fish laws. These are all allegations that have been made.

I have some questions I would like to get into in that regard. One, in 1986 the Department reorganized its marine resources enforcement operations. One impact is that reorganization had upon the Department's ability to adequately enforce commercial fishing laws. I'd like to start down the table, and if you would, Mr. Wright, could you respond to that? Reorganization, what impact has it had on their ability to enforce commercial fishing laws?

MR. WRIGHT: I think in the past what we've had is experts in the field, basically, that were in wildlife protection that knew a great deal about the marine resources and how to enforce it. As said to me by an old captain one time, he said, "You can take any marine warden and put him in a land warden's spot, but you can't take any land warden and put him in a marine warden's spot because of the technicality of the laws involved and ever-changing commission policies and regulations." So I think that enforcement has gone down. I don't think there's any way around it. The people who are now out in the field are not emphasizing the commercial enforcement aspect as I think it should be done.

ASSEMBLYWOMAN ALLEN: In your opinion, would it be because of perhaps a lack of knowledge of fish and game laws, then, in the marine region, and my understanding too, that there's a difficulty, you have to establish sources etcetera and contacts to be able to understand your market better. Is that correct, or could you elaborate on...?

MR. WRIGHT: Basically, I work for a special operations unit and I do commercial enforcement and most, strictly, fisheries, and I have a lot of contacts and I'm well aware of what the industry's doing and what's going on with it, but there are so few of us now that are doing that actually enforcement. The supervision that is given us is more likely to prepare you to go out and make a no license case than a commercial case, and that's from the lower echelon down. As direction from the Chief here, all he could say to me is, "Go out and get 'em. Take 'em

down," so I think that maybe the lower supervision probably has to be directed to go out and do that.

ASSEMBLYWOMAN ALLEN: And what kind of..., that's not commercial fishing operations, it's something else? I'm sorry, I missed that.

MR. WRIGHT: Well, take an example. I think probably the whole thing stems from a reasonable concept. In most police forces, as you're well aware, have a sheriff or like a commission of the highway patrol and they're all deputized people. They've come up through the ranks and so forth. In our agency we have five regions. Above that region is a regional manager who is not deputized and most times has never been deputized, is not law enforcement oriented. Or our chief, to get messages down, he has to make a cooperative effort to send out information and request to have certain items checked or certain items that he sees as a real problem, like commercial fishing.

The regional manager has a choice of whether to make that decision to, how much emphasis to put on it, how much priority.

ASSEMBLYWOMAN ALLEN: So, in other words, a chain of command exists where, perhaps, a law enforcement issue would not come from the chief of patrol, such as Mr. Johnston, it would be coming from one of the five different region managers...

MR. WRIGHT: That's it exactly.

ASSEMBLYWOMAN ALLEN: ...which could negate an enforcement priority based on whatever determination was made by regional managers to what would be a priority for enforcement

purposes, and then from the appearance, I only pulled..., I asked for time reports, I only pulled Region Five, and I just received those last night and they're voluminous so I very quickly went through June of this year, and basically all I could find..., what I found in there, that a little less than 2% of the time, in Region Five, which is mainly a marine region, is being spent on commercial checks based on the time reports. Obviously, that's Region Five, but someone from Region Five perhaps could give me..., would that be Mr. Cribbs?

CHAIRMAN CONDIT: Is someone here from Region Five? If you will respond to that, Mr. Cribbs, we can...

MR. CRIBBS: As Chief Johnston pointed out, one of the things that we will hopefully do in this pilot study to look at staffing criteria and those types of things, is determine how much available patrol or enforcement time our personnel have, and the current time reporting system, in essence, does not really tell us, out of the given eight-hour day, or potential eight-hour day, how much time can be devoted to any type of field enforcement activity as opposed to administrative, court time, training, those types of things, sick leave, any other type of time utilization. So to say that it's less than 2% may not be completely accurate, because we don't know really how much given time is available to do any type of productive enforcement work and that's one of the things we want to determine.

ASSEMBLYWOMAN ALLEN: Is that because of the form itself? I mean, is that because the time reporting form, the manner in which it presents itself for them to fill in, for the

wardens to fill in, is it not perhaps responding to just that need?

MR. CRIBBS: One of the missions that I had in talking to the other states was to determine what methods they used to determine not only their cost accounting but their activity. And most law enforcement agencies, their field officers do an activity report that basically gives you the broad data to determine how much available law enforcement time they have. As opposed to a cost accounting. Some of them are combined. The State of Tennessee, for instance, combines the two. And there are some effective methods that can be used to determine exactly how much time is available and those are the things we hope to do to come up with some really valid statistical information for staffing needs.

ASSEMBLYWOMAN ALLEN: Because of the more..., and I recognize that wardens have more and more to do based on legislative mandates as well as policy mandates, how much of the time would you say would be acceptable of a warden's time, or is that even a proper way to manage it? Should there be a goal set forth, or even a policy set forth, that would say, "You are to do, perhaps, a check of 10% of your commercial activities in a rotating fashion." How does that work within the Department currently? Do you do that, or do you do it based on how much time a warden should allocate to each function and responsibility that he is given to do?

MR. CRIBBS: Well, again, looking at traditional law enforcement agencies that allocate certain percentages of their

enforcement time to traffic, certain amounts of time to burglary detection and things of that nature, once the objectives and some goals are defined by the agency, whether it be our department or any agency for that matter, and you know you have a certain number of personnel that can work a certain number of hours doing those activities, then you can take a percentage figure and direct your personnel to do those things. Certain goals have been established by the Department through the goals that set in previous years. We also have enforcement plans that ensure that x number of businesses, or x number of vessels in a certain fishery will be checked during the course of the season, so we do have some guidelines within which to work. Again, determining exactly how much time we have available is a key factor, I believe.

ASSEMBLYWOMAN ALLEN: Is there a plan..., has there been a deemphasis would you say on those commercial checks for a lot of reasons, perhaps the fact of reorganization, the lack of training, or the lack of manpower, whatever reason there would be, has there been a deemphasis in your opinion.

MR. CRIBBS: Well, in Region Five, again speaking, because of the staffing shortage, for a number of reasons, and also because it is training ground for most of the other regions, after about two or three years, people transfer out of the region, so to get up to a peak level, as Warden Wright was stating, to a peak level where you're familiar with the laws and can apply them effectively takes about four years. We really aren't reaping that training, per se, in Southern California, so

we really aren't getting an accurate indication of what type of effective enforcement we want in Southern California and what type of effective enforcement we really are getting.

ASSEMBLYWOMAN ALLEN: (Inaudible) allocate the manpower available.

MR. CRIBBS: Can't do it.

ASSEMBLYWOMAN ALLEN: The training situation for wardens, would you say that there's more training..., well obviously, there's probably a lot of training going on. It's manpower shortage. You're taking wardens who would normally be out in the field and having to assist in that training, is that correct?

MR. CRIBBS: The FTO program is designed to take experienced personnel and utilize them as FTO's for a four week period with each trainee, so during the course of that training there is probably a reduction in the actual effective enforcement because they're concentrating on specific types of enforcement in the ten modules that the chief described.

ASSEMBLYWOMAN ALLEN: Thank you. I'm going to go to another question: since 1984 there has been about a 50% decline in the number of citations issued for the commercial fishing related violations. Maybe I'll ask it this way. To what do you attribute this decline?

I'm going to start first with you, Mr. Wright. Is it correct that you're in Special Operations?

MR. WRIGHT: Yes, that's correct.

ASSEMBLYWOMAN ALLEN: Thank you.

MR. WRIGHT: I think probably some of the reasons that the inspector stated go hand in hand with lack of knowledge and just lack of manpower that we have.

ASSEMBLYWOMAN ALLEN: Do you believe that the wardens are transferring out of that marine region as quickly..., is that the reasons for the manpower shortage, or can someone here give me some enlightenment. Are there other reasons that people were not staying down in that Region Five or the more urban area other than just that they want to go out where the trees are?

MR. WRIGHT: There were some personal problems, as I recall as president of the association that led a lot of people out of the region because they just got really disenchanted with the supervision and how fast they were promoted and who they were and so forth and what they said over what was actually happening in the field.

ASSEMBLYWOMAN ALLEN: So there was some unhappiness based on, perhaps, supervision or management down in that area?

MR. WRIGHT: More morale.

ASSEMBLYWOMAN ALLEN: And low morale. Well, we saw that based on the surveys. The low morale was particularly high in marine regions and there must be some reasons, hopefully, we can get into for that. You would say, then..., what would you attribute, then..., you say that you're attributing the lack of manpower, mainly, to the reason that the checks aren't happening and to untrained..., in other words, they're brought in from other regions, they're not able to conduct these in the same fashion that would if they were familiar with their area?

MR. WRIGHT: The FTO program is one of a multitude of programs that the Association brought forth in collective bargaining. Talking about what we needed to have in a way and trying to direct the Department in what was a good fashion.

The FTO program takes trained wardens that have been around for a while and directs them to train other wardens, but that doesn't necessarily mean that FTO is going to be knowledgeable in marine law or has any experience in it.

ASSEMBLYWOMAN ALLEN: So that, probably, is why we're seeing fewer market checks, is that correct?

Yeah, an FTO that is knowledgeable in training an individual in land patrol functions may not know anything about marine functions, or little.

ASSEMBLYWOMAN ALLEN: Another question: has there been any legislative, administrative, or industry pressure placed on the Department's enforcement personnel to reduce its efforts relating to monitoring of activities of the commercial fishing industry?

MR. WRIGHT: There has been political pressure.

ASSEMBLYWOMAN ALLEN: By whom?

MR. WRIGHT: Well, political pressure in the fact of legislation that's been passed or gone through. An example would be 3081 itself.

ASSEMBLYWOMAN ALLEN: How does that impair?

MR. WRIGHT: The first recommendation that one of our auditors made that was a reasonable, to me, a reasonable expectation of what should have occurred was to make a standard

fee for a license of \$100 and up the tax on the fish. That way the big boys would be paying for what they use and the little boys on the street, who are the Mom and Pop markets, would be paying for what they use. As it is now, a company who has five or six plants is going to be paying \$750 for a multi-license, and the little man on the street who has got one company doing the same thing is going to be paying \$750. It certainly takes a chunk out of his pocket where the big boys it doesn't affect at all.

ASSEMBLYWOMAN ALLEN: So it hasn't related to the amount of fish you catch or the increase..., how many years has it been since there's been an increase in the landing, the taxes on the fish?

MR. WRIGHT: I don't know.

ASSEMBLYWOMAN ALLEN: I know when we were looking into 3081. Does anyone here know? Dewayne, do you know?

I know when we were looking at 3081, I understand it's like over ten years or longer since there's been any increase, so you're saying that, because of the way it's structured, the Mom and Pop stores now, under 3081, that politically makes it more difficult to do your job, is that correct?

MR. WRIGHT: Basically it was an industry bill. It wasn't our agency bill, to begin with, and we agreed to it, I think..., I don't know, I don't know the Department's stand on it, but in my opinion, we agreed to it because we hadn't had an increase and couldn't get one through. We got an increase of some sort at least.

ASSEMBLYWOMAN ALLEN: Has there been an increase or decline in the number of warden contacts with commercial fish operations in the past three years? Perhaps Mr. Smith?

MR. SMITH: What was the question..., what was the decline you were referring to?

ASSEMBLYWOMAN ALLEN: Has there been more or fewer, an increase or decline, in the number of warden contacts in fish operations in the past three years?

MR. SMITH: I don't have those statistics in front of me. I'm sorry.

ASSEMBLYWOMAN ALLEN: From experience?

MR. SMITH: As I indicated to you on the phone, Ms. Allen, I haven't worked marine patrol for eight years and...

ASSEMBLYWOMAN ALLEN: So it would be difficult for you to know...

MR. SMITH: Yeah..., I really can't...

ASSEMBLYWOMAN ALLEN: Who would be an appropriate one to ask this question?

MR. SMITH: That's it.

ASSEMBLYWOMAN ALLEN: You would be the one in the field. Are you still in the field, Mr. Cribbs?

MR. CRIBBS: I would hope to think I'm in the field. Most of it's behind a desk, but I do have an opportunity to talk to the troops occasionally and review their reports. In the last two years, I would say that the amount of training that our personnel had, our inland personnel and marine activities, they're just developing confidence level now where they can

adequately go down and know what species to look for and what types of things to look for. The number of checks per se, as far as fish business, is probably about the same as it had been. The productivity from those checks may be different because the field personnel are not as experienced in those laws.

Secondly, they're not getting the intelligence information that is vital to enforcement of commercial fisheries laws.

ASSEMBLYWOMAN ALLEN: Why are they not getting the intelligence?

MR. CRIBBS: Because the confidence that the fishermen and the sportsmen have in that warden to know what's going on is not there. If a warden goes down and he's fairly new in an area, he doesn't know who the fishermen are, he doesn't know the types of gear that are being used, he doesn't know the species. The people that they deal with are not going to open up to them and provide them with intelligence information. They don't develop a trust. One of the new things that we are attempting to do on a regular basis is have the town hall meetings that we traditionally had under the marine concept to improve the contact between the fishermen and the wardens, and it also, again, develops the knowledge level of the wardens so that they know this guy's a gill netter, this individual's a troller, and so forth. That takes some time and you don't get that level of training and confidence within a two year period, so it is a growing process.

ASSEMBLYWOMAN ALLEN: So reorganization probably can be attributed, or those kinds of problems, can be attributed to reorganization because of retraining and not knowing gear, not knowing the market, not knowing the fishermen, etc., that could be part of the citation decrease?

MR. CRIBBS: I think there's a number of reasons, in addition to the attrition rate that's just an ongoing situation in Southern California.

ASSEMBLYWOMAN ALLEN: Would you comment on that, the attrition rate? What could we do as a Legislature to help with that? Or is that something is truly just because they want to go up and smell the pine, or something?

MR. CRIBBS: Well, the Department has a hiring practices committee that has been looking at options and soliciting input from the field and I think the Chief has commented on what types of things are being done internally. Our recruitment program in the Southern California area is something that's in the works, an ongoing recruitment program rather than..., and maybe an annual testing. There are a number of things that the hiring practices committee is doing based on input from the field that hopefully will improve that situation.

ASSEMBLYWOMAN ALLEN: Maybe Mr. Johnston could answer the question of why we're having difficulty hiring wardens.

MR. JOHNSTON: Well, I think it goes back to..., and I..., a couple of issues, but I'd like to respond to your question about our level of enforcement. In 1986-87 fiscal year, we realized and we were concerned as you were that the

reorganization wasn't doing what we wanted it to do. We wanted to spread that expertise out so that when we called the warden down from Alpine County out of the snow, when he's buried six feet deep in snow there's really not much fish and game going on, we brought him down to San Francisco Bay Area to help us out with marine law enforcement, that he had some knowledge in that issue. So in 1986-87, the director asked for a 10% increase over our level of marine enforcement over the prior fiscal year and all the regions reported that they met that 10% increase, so we were spending the time out there in the field, but I think that some of the things that Mr. Cribbs pointed out to you, there on the number of citations that were written in this. We're losing a lot of World War II and a lot of classes of game wardens that have come along. We've replaced sixty to seventy wardens in the last three years. That's almost a third of our force. We've lost a lot of expertise out of the bottom of the..., out of the ranks, and that, and of course, when we have a veteran patrol chief retire who's got all of this knowledge, one of the other people moves up, so we've lost a lot of people in the Department basically because, after the war and for a few years after that, and we began a hiring process, so we have lost a lot of expertise in the Department.

ASSEMBLYWOMAN ALLEN: Are there things in the hiring process that are difficult, creating problems in hiring wardens?

MR. JOHNSTON: There are a number of things in the hiring process. Just the physical process that you have to go through to hire a game warden is lengthy and time-consuming.

When a position becomes vacant in Northern California it gets advertised for collective bargaining agreement with Unit Seven and it's required to be advertised for transfer, to have the most senior officer fill that position. That takes a couple of weeks. Once that position is filled..., or let's say for the sake of argument that the position doesn't go to transfer, nobody is interested in it. Now we get to hire a new warden. Then under State Personnel Board procedures you've got to send contact letters out to see who's interested in taking over the job. That takes a couple or three weeks.

ASSEMBLYWOMAN ALLEN: It's my understanding that it's been very difficult to find qualified applicants under the affirmative action program. Is that correct?

MR. JOHNSTON: Well, I think that the problem is the length of time. We've have had problems, but..., in our recruitment. In the last Fish and Game Warden's exam we met every affirmative action goal, or came within fractions of percentage points of meeting all our affirmative action goals, and we have met our affirmative action goals every year for the last three years.

ASSEMBLYWOMAN ALLEN: Apparently in compliance with affirmative action hiring practices?

MR. JOHNSTON: Yes, we are, but the problem is, and it goes back to that babbling brook concept. How do you get somebody who..., you know, his vision of being a game warden, or her vision of being a game warden is out in the tall pine trees, and that's really a problem we need to battle, and we have

philosophically changed our attitude. I remember, when I first came on as a warden the gospel was that you went and would go anywhere in the state to get a job, and then you'd transfer out. Well, not recently but a couple of years ago, we had a gentleman come in and say, "I only want this position in Southern California," and he wouldn't have got that position twenty years ago. well, we hired him and he's been down there ever since, and hopefully some of those philosophical changes will help out.

We've also done some internal procedure changes. We've authorized positions. For instance, we had a vacancy in Southern California, a position that's authorized in the budget, fully funded, duties didn't change, everything was in compliance and yet that went all the way up through the chain of command, through the ladders and everything, and had to be finally signed off on by our deputy director, and our deputy director said, "Hey, wait a minute, folks. We don't need that kind of stuff. When a warden's position is vacant let's go ahead and do it."

We're also attempting and are going to, in anticipation of our next academy, hire people unassigned. We haven't done that before. We haven't had the luxury to do that before because we're not like the CHP. We don't know that there's an academy coming up two weeks from now until we've got our own affiliation with Napa, so we're going to start hiring people and we're just going to tell them, "Hey, you're unassigned. You could end up in Long Beach. Please don't take the job if you won't go to Long Beach, but we're hiring you right now unassigned. We're going to put you in the academy and we're going to get you trained and

ready to go out into the field when that vacancy in Long Beach occurs."

ASSEMBLYWOMAN ALLEN: I've read, too...

CHAIRMAN CONDIT: Now, Ms. Allen, do you have another question?

Can I ask that unless there's difference of opinion on the answer can you direct them to one of these gentlemen instead of having them all answer the question? We're going to be here for..., you know, we've got two other sections on today's hearing, so direct your question to one of them. If someone disagrees with that answer you're free to raise your hand or speak up.

ASSEMBLYWOMAN ALLEN: I think the other thing, in reading the surveys, that I noted was that the overtime policy seems to be a very big item with the wardens and the overtime policy doesn't appear to be consistent. That there may be a different policy depending on which region you work in, or there's not a consistency. If it's coming from the patrol chief or if it's coming from a regional manager, or whether it's coming from a captain or a lieutenant, that who is in charge here authorizing overtime... When you have a warden and a manpower shortage one would think that you would want to go to the overtime practices which have been all but eliminated, first of all based on federal law and/or court decision but then I understand there's been another decision that at least gave you more latitude leaving it in the Department's management hands of whether or not you could give overtime money or equivalent time

off, and I've heard that there's conflict in who is in charge to authorize that and that it's done very arbitrarily and not in a consistent fashion.

I'm going to first ask Mr. Wright. Have you experienced any overtime or wardens working with you experienced any overtime difficulties?

MR. WRIGHT: Not in the current position that I'm in. I have pretty well unlimited use because I'm in all of this commercial activity. In the past practices of the wardens they've traditionally given, we documented, between 100 and 200,000 a year voluntarily. Okay? As compared to, like, the Highway Patrol or the Department of Justice who have overtime regularly paid overtime programs. Our agency is, maybe, paupers, but that certainly keeps our wardens off the street because they're not paid for FLSA and they won't go out, they're not allowed out.

ASSEMBLYWOMAN ALLEN: I heard a case reported today, and perhaps someone can fill me in on that, it's a case reported where they're out at sea and they ran into some bad weather and they were told to take their time off on Catalina and take their time off for a couple of days due to bad weather and were ordered to do that. Is that a practice of the Department? I'll ask Mr. Johnston. Is that acceptable practice?

MR. JOHNSTON: I'm not aware of that situation. Perhaps Mr. Cribbs could answer. I wouldn't think it would be acceptable department practice. First, let me answer your question on overtime. We have a written overtime policy on when overtime can

be authorized. I think that the problem lies not in the authorization of overtime. I think we've got clear guidelines on that, but as, I believe it was Chief Wictum, responded we've changed the way that wardens can traditionally work.

When I first came to work for this department and I had a super warden that I really respected, he mentioned it the other day, he said, "Remember these times? These were your good old days." When I first came to work for the Department we just basically worked when we needed to and when the snow was ten feet high we didn't work, and you talk about your cost accounting and how you're keeping books and stuff like that..., and you're correct, that's not allowable today. So the problem is that we've got a procedure to authorize overtime. However, that overtime is not authorized for routine patrol. That's when the warden's out seeing his district and finding out where the bad guys are and doing that. If he's got a pollution problem or he's working on a case, an ongoing case, and I forget, I don't have all the criteria, his immediate supervisor can't authorize overtime.

ASSEMBLYWOMAN ALLEN: I've had a case reported to me where a warden worked some overtime under the behest of one of his supervisors and the other one cancelled it out because he said "No. I would not have authorized that." So, it appears that there's not consistency there and it's been difficult, because of that overtime issue and I don't want to belabor that too long...

MR. JOHNSTON: Well, let me finish. I think that the big problem is in routine patrol. The warden no longer has the ability..., if he says, "I feel lucky today. I'm going to work Bald Mountain for the next fourteen hours." We just can't let him do that because FLSA requires that we give him time and a half off and we can't afford to have him off time and a half for that fourteen hours, and I think that that's the real big change in the Department. And if there are inconsistencies, that's something we need to address internally and we do that all the time. We meet six times a year with all the regional patrol chiefs get together and talk about these things to make sure everybody's doing them the same.

ASSEMBLYWOMAN ALLEN: There was a point brought up earlier regarding you..., not you but your position, that basically you are not the final say in law enforcement, that it then breaks down and goes into the five regions and your law enforcement priority based on enforcement of the law really is a decision that can be changed by the five regional managers. Also I heard, any one of them, that there is a ..., through the five regional managers, that there is an inconsistency in the implementation of department policy and the Department may lay down a policy such as you said. But within the five regions, it can happen differently even as interpretation of Fish and Game Code goes, and what has happened is some of the cases, when they take them to court are very difficult to make stick because they can say well, in this other part of the state there's not consistency, we were able to do that. It was interpreted differently.

Would you, now this is not really, probably, a good question to ask you, because your position would be that you would probably have to say this. I'm going to ask another warden, Mr. Smith, would you believe that it would be better for the Chief of Patrol to make decisions regarding law enforcement or that the current practice should continue? Maybe that's not fair to ask you either.

MR. SMITH: I would venture to say you're going to get the same answer.

ASSEMBLYWOMAN ALLEN: Yes, I think I asked it the wrong way, yes.

MR. SMITH: I will comment, though, that what you say has really been true in the past. I know in recent times, within the last couple of years, there have been regions that have been allowed, the wardens have been allowed, to accumulate and take off zero overtime, or virtually zero overtime, then when they got a few hours overtime they had to justify it and they were the only function within that region that had to justify that overtime with a lot of paperwork.

These wardens were working directly adjacent to wardens that were in a different region, and just because of a political boundary line, had a lot more freedom in how they worked, did not have to overly justify their overtime as long as it worked within the guidelines. That's also occurred in the fiscal aspect of things. One region, the wardens would have a 10% reduction in their mileage. This hasn't happened for a couple of years. The next adjacent region, the wardens were free to drive as far as

they want because of the difference in perception in how the money should be spent in the region, so I think it has been a problem. I think it has been improving. Some of them were...

ASSEMBLYWOMAN ALLEN: (Inaudible)...

MR. SMITH: There are personalities that are involved, and people that have retired out.

ASSEMBLYWOMAN ALLEN: Does it impact doing your job? I've heard wardens say it has impacted doing their jobs because they may get a call, or they used to get a call, on their days off and they would not have any hesitancy going out and responding to that call, but today they are cautioned and they don't do it. They're not even covered by insurance on days off in that manner, if they're out doing business and they're not covered by...

MR. SMITH: You bet you, and I'll bet that any field warden who goes out who has not got permission or it's not one of those cases clearly authorized that he will be covered, he's really sticking his neck out. I don't know of any cases where a warden has been injured and he's not been covered or anything like that but I think it's a fear that is out there.

MR. JOHNSTON: Mr. Chairman?

CHAIRMAN CONDIT: Mr. Johnston.

MR. JOHNSTON: I'm not afraid to respond to your question. I would like to respond to that, basically, a little bit.

First off the bat, the director and the acting director have made it clear to me and to those regional managers that you

keep talking about that law enforcement policy comes out of Sacramento. Okay? Sacramento implements the law enforcement, or Sacramento puts the policy together, the regional people implement it, the regional managers. I think the system's working very well now. The problem you describe is one of..., you're right, there are interpretation problems. When that problem comes out of Sacramento, there are five different minds looking at it and you may get five different variances of it, but I think we've come a long way in the last three years to making this staff in line concept work, and that's the key thing, that we've all got to work together to make sure that we're getting those consistent interpretations. We want to get the same interpretation we get in Redding as we get in Long Beach, and to that end, like I mentioned, I meet six times a year with the regional patrol chiefs who I consider to be the senior law enforcement officers in each of those regions, and when I first started to work and took over this current job we had one meeting a year and the regional managers were always there to make sure that I behaved myself.

ASSEMBLYWOMAN ALLEN: So you think it is appropriate that even though you have given a direct, or should be able to make that decision for law enforcement, because that is why you have risen to the level that you are now enjoying, I hope, that..., because you have that expertise, but that you believe it is appropriate then to step aside for the regional manager to make that decision? Even though it has been a policy made for enforcement purposes?

MR. JOHNSTON: Yeah, the regional concept has worked well, and it continues to improve, so..., you know, I don't think...

ASSEMBLYWOMAN ALLEN: It's not a fair question to even pose to you because..., well, maybe, there could be biases built into that and..., but thank you for your input.

MR. SMITH: Ms. Allen, I won't object if the regional..., I agree that the regional concept has worked well, but there have been problems in the past with it.

ASSEMBLYWOMAN ALLEN: That's what I'm hearing. Not only that..., some of it through the surveys, but I've heard it in more than just one situation, and I think you might want to take a look at that. If you have an inconsistency in interpretation it can create problems, especially with your reorganization moving people around. I think that could possibly be a problem.

What percentage of fish and fish products currently being marketed in California are from illegal sources? You'd be a good one on that, Mr. Wright, being on the Special Operations Unit.

MR. WRIGHT: Well, let's see. I gave an estimate the last time and it wasn't, as stated earlier, it was \$60 million worth in marine and \$60 million worth probably in land, and that was an estimate given when we established the Special Operations Unit.

ASSEMBLYWOMAN ALLEN: Do you see that as a serious law enforcement problem?

MR. WRIGHT: I see it as a very serious law enforcement problem, and we do not have enough law enforcement personnel and the right ways to work it. I told Mr. Costa before, in a committee, we needed more game wardens. He told me that we wouldn't get 500.

ASSEMBLYWOMAN ALLEN: You believe that game wardens, more of them, would solve the total problem, or is strengthening the legislation also something that would be necessary?

MR. WRIGHT: I think partially legislation, but I think what is necessary, we need more manpower to begin with. Okay? An additional 20% wouldn't hurt our agency whatsoever. In normal police work, probably most of you know how it works, when you go to work you go to work on a shift, not that our wardens love shifts because they'd kill me if I said this, but they go to work on a shift and they cover a set amount of area with a set amount of people that they have to watch and protect. In our area you go out there and you're out there for 24 hours a day, seven days a week, and if you get a call-out, you may have used your forty hours and you may not be able to go out. So it relates back to the manpower issue and also the Special Operations Unit. We've come a long way. We've established a..., I think we've put our foot down in California as an effective, viable force against fighting commercial violations, and I...

ASSEMBLYWOMAN ALLEN: You believe there needs to be more of you...?

MR. WRIGHT: I think there needs to be more of us and a stronger structure of...

CHAIRMAN CONDIT: Let's not get back into personnel. We've all decided that there needs to be more...

ASSEMBLYWOMAN ALLEN: Plenty more of the operational, special operational units, not necessarily more...

CHAIRMAN CONDIT: Well, I think that we generally have agreed that there needs to be more personnel out there, and I want to tell you that we can write all the laws we want up here, but if you don't have the personnel out in the field, it's very difficult to enforce those.

MR. JOHNSTON: Mr. Chairman, may I respond to one thing that Mr. Wright said? I'll be brief.

CHAIRMAN CONDIT: Yeah. But I don't want to..., I mean, I'm going to get some answers. Do you disagree with his answer?

MR. JOHNSTON: I disagree with one thing he said. He said if a warden got called out that he wouldn't be able to go if he'd spent his forty hours..., that's not true. The Department's policy is that if a warden gets a call, or he has reasonable likelihood that he's going to be able to make an arrest, he can go without authorization. That's one of our policies where we can still be called out.

ASSEMBLYWOMAN ALLEN: Is that consistently implemented region by..., in all regions?

MR. JOHNSTON: As far as I know.

ASSEMBLYWOMAN ALLEN: But it could be overturned?

MR. JOHNSTON: Pardon me?

ASSEMBLYWOMAN ALLEN: That policy could be overturned within a region.

MR. JOHNSTON: No, that policy is not overturned in a region. Now there may be a problem down at the lieutenant's level and there may be a disagreement one on one about was that really a good call-out. You know, something like that, but if they get called out on a case, you know, if there was a gill net hanging out somewhere and somebody got a call on it and they didn't go because they didn't have their forty hour week, I would be concerned about that.

CHAIRMAN CONDIT: Okay. Ms. Allen, at 3:30, we're going to move to the next section, so you can finish your questions and responses by 3:30. We're going to move to Section Three of this hearing at 3:30.

ASSEMBLYWOMAN ALLEN: I think I would like to..., and there are so many questions and I'm sorry to be taking up so much time, but I think that there is a great deal wrong with the capability..., based on what..., I didn't get the report, again, from Region Five. I don't know if it's Region Five, but I know that there was a report out there that was done regarding the law enforcement capability in the marine regions. I asked for that report and didn't receive a copy of it, and I think it would have helped to be able to get into that, and I've had a great interest in this, as you know, from the legislation I've carried in the past, and if we don't have wardens out there and we don't have the equipment and vessels out there to implement and enforce the law then obviously making laws is of absolutely no use, and that's why I've pursued this particular line of questioning. I could go with a lot more questions, but I think I will get into some specific cases.

There was, we've had reports that, we've had some abalone going into the San Francisco markets, illegal abalone from the North Coast. Also I've heard that the survey, and I asked you for the recommendations from the Department based on this survey of abalone that was done, I guess, by commercial fishermen together with department people of abalone on the North Coast and that this may have been mitigation for the otter issue being moved to the San Nicholas Island. Could you tell me what you are doing, currently, about the abalone that is reaching..., illegal abalone reaching the San Francisco market, Number one, and Number two, would you address what you intend to do on the North Coast regarding opening that to commercial, which is currently only open to sport?

MR. JOHNSTON: I can't address the second issue. That would be a management decision made by our marine resources division, I presume.

ASSEMBLYWOMAN ALLEN: Right, and I did ask that question. But I didn't get a response either, so...

MR. JOHNSTON: I couldn't tell you that.

ASSEMBLYWOMAN ALLEN: Answer the one you can answer.

MR. JOHNSTON: As to the issue of the abalone enforcement, I mean, I won't tell you we make a case every day but we do make cases of people bringing abalone off the North Coast...

ASSEMBLYWOMAN ALLEN: What are you doing, then, to prevent that coming in. Just arresting people who are doing it, or that's basically it. How many citations have been on the North Coast regarding abalone in the last year, six months?

MR. JOHNSTON: I couldn't tell you the number regarding abalone because at least a lot of that would be mixed in with sport, but we have made cases in the past of people bringing abalone down that, you know, for commercial purposes into the San Francisco markets, and we've established a network of informants and contacts with commercial fishermen and those types of things to help us to apprehend those, and once again it comes down to pure matter of numbers.

CHAIRMAN CONDIT: Okay, Mr. Hauser wants to..., have a question, and we won't take this away from the balance of your time, Ms. Allen.

ASSEMBLYMAN HAUSER: No. I appreciate that. You got my attention. Abalone on the North Coast, of course, is a critical issue to those of us who are sports divers.

ASSEMBLYWOMAN ALLEN: I would agree.

MR. WRIGHT: If I could address that issue, just for a few minutes. Early on in the program I was directed by Chief Johnston to go with an agent Cicada out of the Department of Justice and we spent a lot of months on the North Coast doing nothing but Red Abalone violations in dealing with commercial sales, and I don't know how many convictions we got out of it, but we filed a lot of cases. In addition, in the Bay Area last year I think we made about seven or eight convictions with commercial market inspections with my partner and myself, so we've taken down some. We just haven't had enough people to go back into the Bay Area.

ASSEMBLYWOMAN ALLEN: And complete it.

MR. WRIGHT: But that's coming up in the next few months.

MR. JOHNSTON: I believe what..., we borrowed a special investigator from the Department of Justice, Steve Cicada, and he did some abalone work on the North Coast and he was fairly successful on it and we also did some abalone work in the Santa Barbara area where there's a special operations unit, so it's not something that we're ignoring. We're trying to get to it as time and personnel allow.

ASSEMBLYWOMAN ALLEN: Thank you. Mr. Hauser, I think, is...

ASSEMBLYMAN HAUSER: I just want to follow up a little bit because this is one area where there is insufficient work being done on sports harvest of abalone, and I strongly believe that we're seeing as great an impact from poaching by sports harvesters as we are by the commercial on the North Coast. Just as a follow up to the issue of ever opening the North Coast to commercial abalone harvesting, there are a number of us who would prefer to see open game on sea otters before we allowed commercial harvesting on the North Coast...

ASSEMBLYWOMAN ALLEN: I'm not going to tell you where I stand on that.

CHAIRMAN CONDIT: We've all seen the cannon in Mendocino.

ASSEMBLYWOMAN ALLEN: Mr. Hauser, my concern was, are you familiar, have you seen the abalone survey and the diving did take place, and it was my understanding that part of that was

done as a mitigation because of the otter move over to San Nicholas Island and the abalone and shellfish industry there would be in jeopardy. I would agree with you that I would hate to see that happen. I also understand that there's been a tremendous amount of illegal take of abalone to the south, and that that inner tidal area has actually been picked clean and now divers are going out into that outer tidal area to go for abalone. What are we doing to stop that kind of activity in the south, and hopefully Mr. Hauser and I both will be watching what happens on the North Coast?

CHAIRMAN CONDIT: Let me interrupt. Mr. Hauser, did you get your question answered? Mr. Bontadelli, you've come up. Did you want to add something to this issue?

MR. BONTADELLI: if you specifically would like an answer as to the basis of the survey where we are with abalone management, we have here Mr. Al Petrovich who heads that unit who can answer those questions if the committee chooses.

CHAIRMAN CONDIT: Okay. Ms. Allen, would you like that?

ASSEMBLYWOMAN ALLEN: I would like for him to respond. What is your management policy going to be on the North Coast as it applies to abalone?

MR. MOGER: (Inaudible)?

CHAIRMAN CONDIT: Yes, you do.

ASSEMBLYWOMAN ALLEN: Yes, we want you to do that.

MR. MOGER: Would you raise your right hand. Do you solemnly swear or affirm that the testimony you are about to give this committee shall be the truth, the whole truth and nothing but the truth?

MR. AL PETROVICH: I do. I'm Al Petrovich, chief of the Department's Marine Resources Division. We have an ongoing monitoring effort on the North Coast because we also realize that the recreational harvest of abalone there is very important. In fact, our estimates indicate that in 1985 the recreational harvest of abalone on the North Coast exceeded the statewide commercial harvest, so we've..., I don't think it was ever anyone's intent... The California Abalone Association, as a..., it was their proposal that the North Coast be opened as a mitigation measure for the translocation of sea otters to San Nicholas Island...

ASSEMBLYWOMAN ALLEN: And they did the dive with you and put questions into the survey, is that correct?

MR. PETROVICH: No. We conducted that survey to determine the status of the population, the red abalone population on the North Coast. That was something we hadn't done in ten years and we felt was a good idea.

ASSEMBLYWOMAN ALLEN: And the fact that they dived with you was just..., for what purpose? I know that they did the dive with you, the commercial abalone industry did the dive with you and also gave input to the survey. What was their reasoning for doing the dive with you if they didn't have intentions of going on the North Coast for abalone?

MR. PETROVICH: Well, it was their proposal, Ms. Allen. Yes, that's what they wanted, and we, in our continuing effort, we work with all the user groups and they contended that there were areas there where there were virgin stocks of abalone, and so we said...

ASSEMBLYWOMAN ALLEN: But you have made a management decision not to do that, is that correct, to not open the North Coast to abalone...?

MR. PETROVICH: We have not made that proposal. There is not proposal...

ASSEMBLYWOMAN ALLEN: There is no proposal, meaning that you're not considering even doing that, is that correct?

MR. PETROVICH: That would be my recommendation.

ASSEMBLYWOMAN ALLEN: That's your recommendation. Thank you.

CHAIRMAN CONDIT: Does that conclude your...?

ASSEMBLYWOMAN ALLEN: I have more, but that will conclude it.

CHAIRMAN CONDIT: Well, we appreciate it, and we appreciate you gentlemen sitting here. Mr. Costa, are you taking the last few minutes of Ms. Allen's testimony?

CHAIRMAN COSTA: Yes, and I'll be quick. One to Mr. Hauser, Warden Wright referenced 3081 in the discrepancy between license costs between larger operators and Mom and Pop. You have a district, Mr. Hauser, that has all of that. It seems to me it'd be more confusing to set that up but it might be more equitable. How do you think we'd best approach that?

ASSEMBLYMAN HAUSER: When we were writing 3081, there were objections from the Department of Finance to an increase in the poundage taxes, and in trying to make the legislation revenue neutral the flat fee was adopted. I think we'll have to go back and look at the entire formula and make it more equitable for

both the large processors and the individual small operations, but again, it was the Department of Finance that was giving us a hard time when we were writing it. I think they might be more amenable now when they see the results.

CHAIRMAN COSTA: Warden Wright, a question that I've asked some of the other witnesses, like your comments on, do you detect that there is a subsidization on the part of either the commercial or the sports interests, one or another, you know, the differences that have existed between the two areas, or do you think that we're attempting to try to get funds as best we can to try to maintain the interests of both the commercial and the sports fishing interests in this state? I mean, you made reference earlier to political considerations, and this is a political process we're in and we make public policy, political considerations do take effect as they do with any other issue that we deal with.

MR. WRIGHT: I agree. I'm just concerned, like everyone else, over the resources.

CHAIRMAN COSTA: I understand, and so am I. And do you think we've made a fair attempt at striking the balance, or do you think that we're out of balance?

MR. WRIGHT: I think if the commercial industry is spending \$1.2 million and the sports industry is spending \$60 million (inaudible) I think we're out of balance.

CHAIRMAN COSTA: Is that an accurate figure?

MR. WRIGHT: Well, that's what was quoted up here.

ASSEMBLYWOMAN ALLEN: Yes.

CHAIRMAN COSTA: We have some disagreement.

MR. JOHNSTON: That \$1.2 million was a figure, we got an increase in that revenue from 3081.

ASSEMBLYWOMAN ALLEN: To what figure? How much of an increase?

MR. BONTADELLI: The last year that I have firm figures for was, I believe, 1985-86. We're in the process of finalizing our figures for 1986-87. Mr. Sakai indicated that based on our preliminary review we have had an increase in revenue that we had targeted in 3081 of \$1.2 million with a variety of additional fees. What the Department did is indicated, we estimated we needed \$2.3 million in order to keep the commercial account solvent and paying for the total cost. The total cost is in the neighborhood of \$10 to \$12 million dollars that is spent in commercial enforcement and is raised in all commercial revenues that are credited to the various accounts at the current time.

ASSEMBLYWOMAN ALLEN: Does that include federal funding?

MR. BONTADELLI: That includes federal funding coming from sources such as the (inaudible) Fisheries Act and others which come exclusively for commercial activities and enforcement, the same as the total figure on the other side, for sport, includes Wallett-Brough and Pittman-Robinson, which comes specifically for sport. So the total figure is somewhere between \$10 and \$12 million. We estimated that at the rate things were going up you had to generate \$1.2 million in new revenue to keep that solvent. The industry, working at the time with Mr. Felando and others, came up with a balanced package that had a

combination of that money coming in from a variety of sources. Our goal from Day One was a dollar amount to ensure that the total commercial was paying for itself, and that is our goal because that's how we read the law. We believe that is happening. We believe it is continuing to happen and, as Mr. Sakai indicated, our actual..., we said \$1.2, we got \$1,096,000 and given the number of various areas that we went through and adjusted, which was something in the neighborhood of fourteen to fifteen different fees and everything else, I don't think that's the worst estimate in terms of what our real return was. I think it's very close.

ASSEMBLYWOMAN ALLEN: How much was it in 1985-86 then?

MR. BONTADELLI: We were up, based on those fees. It's in the neighborhood of..., it's somewhere between ten and twelve million...

ASSEMBLYWOMAN: No, no, no. From 3081. What does 3081 generate?

MR. BONTADELLI: Total revenue is over \$5 million, up from \$3 million on those sources in the previous year, so we are going..., what we have done is, because of 3081, we now have \$1.1 million new revenue that we did not have previously.

CHAIRMAN COSTA: And you believe you're going to be solvent and you're not going to have to come back to the Legislature for the commercial account?

MR. BONTADELLI: That is correct.

CHAIRMAN COSTA: How about the sports?

MR. BONTADELLI: In the sport area, we are solvent in the current year, we will be solvent in the next year, and I believe the budget numbers will reflect that. The specific figures on the commercial will be part of the report that will come in...

CHAIRMAN COSTA: That we hope to receive by January first...

MR. BONTADELLI: ...around January 1.

CHAIRMAN COSTA: So you think, and you hope the report will prove, that we're striking the balance.

MR. BONTADELLI: I believe it will and it will also indicate the declining areas, the increasing areas, and with the Legislature and others to help us call the policy judgements that are necessary for what is an equitable method of distribution of those fees and income.

CHAIRMAN CONDIT: Okay, thank you gentlemen. Appreciate your being here. We're going to move to Item Three.

ASSEMBLYWOMAN ALLEN: I'm not sure we have that question answered right.

CHAIRMAN CONDIT: It's implementation of AB 2436 (Allen) and I'd like to ask Mr. Willis, Mr. Kurt Sjoberg, Sandy Weiss, and Richard L. Cutting please to come forward, and those of you who have not been sworn in, you'll be sworn in. I'd like to have you all come up and sit at the table so we can go around the room and hopefully move this along fairly fast.

Okay, who hasn't been sworn in? Who has been? Get those hands up there.

There's more people up here than I have names.

MR. MOGER: You're, on my left...?

MR. ED WILLIS: Yes, my name is Ed Willis. I'm the Assistant Director for Administration.

MR. MOGER: Mr. Willis, will you raise your right hand? Do you solemnly swear that the testimony you're about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. WILLIS: I do.

MR. MOGER: And would you state your full name for the record, please?

MR. WILLIS: My name is Edward O. Willis, the Assistant Director of Administration for the Department of Fish and Game.

MR. MOGER: Thank you, Mr. Willis.

And Ma'am?

MS. OLGA CARMICHAEL: My name is Olga Carmichael. I am the Chief of License Revenue Branch.

MR. MOGER: Ms. Carmichael, would you raise your right hand?

Do you solemnly swear or affirm that the testimony you're about to give before this committee is the truth, the whole truth, and nothing but the truth? And your full name is?

MS. CARMICHAEL: My full name is Olga Carmichael.

MR. MOGER: Next?

MR. KURT SJOBERG: Kurt Sjoberg.

MR. MOGER: Mr. Sjoberg, you're out of the Auditor General's Office, I believe. Do you solemnly swear or affirm

that the testimony you're about to give before this committee is the truth, the whole truth, and nothing but the truth?

And your full name is?

MR. SJOBERG: Kurt R. Sjoberg, Chief Deputy Auditor General.

MR. MOGER: Thank you, Mr. Sjoberg.

MR. RICHARD L. CUTTING: Richard L. Cutting.

MR. MOGER: Mr. Cutting, do you solemnly swear or affirm that the testimony you are about to give before this committee shall be the truth, the whole truth, and nothing but the truth?

MR. CUTTING: I do.

MR. MOGER: And your full name is...?

MR. CUTTING: Richard L. Cutting, Chief of the Audit Division of the Department of Finance.

MR. MOGER: Would you spell your last name for me?

MR. CUTTING: C-U-T-T-I-N-G.

MR. MOGER: And last?

MS. SANDY WEISS: My name is Sandy Weiss.

MR. MOGER: Ms. Weiss, do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

And your full name is?

MS. WEISS: My full name is Sandra Weiss. I'm a program review analyst with the Department of Finance.

CHAIRMAN CONDIT: Thank you very much. I would just ask you, when you speak, obviously when you start you'll identify yourself. You may be asked questions. If you would, I would

like you to identify yourself before you respond in case we transcribe these hearings.

Mr. Willis, you're going to begin on the implementation of 2436 (Allen).

MR. WILLIS: Mr. Chairman, members of the committee, my name is Ed Willis, Assistant Director of Administration for the Department of Fish and Game. The License and Revenue Branch of the Department of Fish and Game is responsible for the collection of license revenues estimating over \$50 million annually. Licenses are sold from Department offices and from some 2500 business outlets known as license agents which are located throughout the State of California.

There has been much controversy in recent years regarding the operation and management of the License and Revenue Branch. Problems, stemming largely from inadequate system of managing license agent accounts have been identified by the Department, the Legislature, and have become the source of considerable media attention in the past. As a result, five different reviews and audits have been conducted over the last three years by the Department of Finance, the Legislature, and the Office of the Auditor General.

Additionally, the Department contracted with the Department of Finance to assist in efforts to develop procedures designed to ensure compliance with state administrative requirements and acceptable accounting principles. Since the initial media accounts alleging poor collection procedures in late 1984, many positive steps have been taken to improve the

overall operation of the License Revenue Branch. A systematic noticing and collection plan was developed and implemented in 1985. This system basically notices license agents in thirty days if a report and fees due have not been submitted. If the agent does not submit a report in sixty days, a second notice is delivered by a Fish and Game warden, who takes an inventory of the account and makes a demand for payment of sold licenses and may, at some times, issue citations.

The system also produces a ninety day notice which formally closes the account. In addition to our 30, 60, 90 day system, a monthly license agents' newsletter was instituted to improve communications, a variety of procedures were developed in conjunction with the Department of Finance to strengthen compliance with accounting practices and principles, a professional level accountant was hired to increase accounting expertise, a two-year plan identifying problems and suggesting solutions was written to provide a corrective plan of action, and a very important piece of legislation sponsored by Assemblywoman Allen was passed on September 30, 1985. That legislation was AB 2436, Chapter 1310 of 1985.

This legislation, which is one of the items up for discussion today, made sweeping changes to the manner in which license agents report license sales and remit fees collected. Specifically, the requirement included the assessment of interests and penalties on licenses sold if reported late, incorporation of license agent handling fees into the price of each license, limiting license book values to the cost of twenty

resident fishing licenses, monthly reporting of licenses sold and fees collected by the 20th of each month, the complete sale of one book of licenses before going on to another, the report of losses within twenty four hours, a mandatory bond for all new license agents equal to the total consignment value of licenses, the reporting of expired licenses sixty days from expiration date or payment of, at full value, licenses whether or not they were sold, the option to purchase licenses up front, monthly status reports to the Department of Finance, three audits, conducted by the Auditor General to review implementation of AB 2436 revisions, and finally, a review by the Department of Finance to evaluate other alternatives to the current system of distributing licenses.

I will now highlight some of the problems addressed by AB 2436 and the actions which have been taken to solve them. There was slow reporting of monthly sales, and the Department was losing interest earnings. Now penalties and interests are assessed if report and fees are not submitted monthly. Over \$193,000 has been collected to date.

There were poor collection procedures. License shipments are now held if reports are not submitted.

There were high inventory of licenses by some agents without adequate bond coverage. Now, all new license agents are required to bond for full value of licenses consigned.

There was little protection against loss from veteran license agents with no bond. Bonds for full value of license consignments are now required of agents who do not report timely.

Expired year licenses were held by license agents. Now payment of all licenses is required and if not returned timely whether or not they were sold.

Finally, agent losses due to fire and theft were not reported timely. Now all licenses must be reported within twenty-four hours of loss.

All requirements of this legislation have been implemented and the Department has recently submitted a feasibility study report to the Department of Finance which will redesign and fully automate the current license agent accounting system. Assuming appropriate approvals from the Department of Finance, the desired work is scheduled to commence in the early part of 1988 and implementation should be fully accomplished by January of 1989. This system will enable us to reconcile license agent accounts more efficiently, reduce timely management revenue reports, track license consignments by serial numbers, and generally improve our service to license agents and our license buying public.

I wish to point out that while we recognize that some work still remains to be done within the License Revenue Branch, the overwhelming majority of the problems related to protecting the Department's revenue have been solved. A significant amount of progress has been made, as illustrated in the summary of problems which was addressed by Assemblywoman Allen's legislation and the Department's efforts to modernize the existing system.

We have taken another step to improve our license issuance and distribution system. The Director appointed a

License Task Force in February of this year to review and evaluate the following issues: simplifying the current license formats, developing a database of license buyers, automating big game and waterfall drawings, developing a twelve month license. The Task Force recommendations are due in December of this year. Recent audit reports by the Auditor General which evaluate our progress in implementing the provisions of AB 2436 primarily addresses conflicts in the interpretation of the legislation and not Department compliance with the intent of the legislation. Also, the Auditor General recognizes the significant improvements in our licensing operation.

In closing, as a result of Departmental efforts and the implementation of AB 2436, the fiscal integrity of the License and Revenue Branch is much more sound. In addition, planned automation will increase overall efficiency. If the committee has any questions or wishes additional detail, Olga Carmichael, our Chief of the License Revenue Branch, or myself are here to help in any way that we can.

CHAIRMAN CONDIT: Thank you, Mr. Willis. Mr. Hauser, I believe, has a question for you.

ASSEMBLYMAN HAUSER: Thank you, Mr. Chairman. Unfortunately, our principal protagonist in this issue wasn't able to stay but I want to thank you for your report. It's very comprehensive and well done. However, it seems there's some Newtonian laws of physics that also apply in this instance, and that it's my information from constituent complaints and other things, that although we have tightened all the procedures and

we're getting all the money in, we haven't left very many incentives out there for stores to sell licenses. And we've lost over a hundred agents this past year and apparently one of the major chains has decided to close at least three hundred additional license outlets. What can we, in the Legislature, or you in the Department do to help us get books of tickets back out into the field so that people can find them?

MR. BONTADELLI: Thank you, Mr. Hauser. You are correct. We have lost over 139 license agents plus one of our major distributors has gone from slightly over..., right around 400 outlets to 97 outlets as a result of some of the reporting requirements to simplify their procedures.

The license agents have come forward with a series of recommendations. I will note one or two that you will hear discussions on from others since they are points of controversy within the system now. Our license agents, at least some of them, have indicated that they believe that there is an inequity in the circumstance that you have a penalty payment of \$35 for a book of licenses that has a net revenue to them for selling it of fifty cents a piece or about ten dollars. They believe that, therefore, the penalties are somewhat excessive. There's a question right now that is still pending that's coming up, working its way up to me with recommendations as to whether or not and how far back we can go on the applications of interests and penalties. That's another issue that was raised both in the Auditor General's report and the Department of Finance has discussed it at varying times in audit. Those are two open issues for us.

We are looking at certain legislation that we will talk to Ms. Allen about first, since it was her bill that we will be dealing with, to discuss the issues of whether or not it would be appropriate to authorize waiver of the bond in order to recruit agents in certain selective areas where we may have license shortages or otherwise occurring. We will be discussing whether certain of the reporting requirements as they apply to various size stores and chains may need to be modified to meet the realities of business practices in getting the timeliness of reports in. We are looking at recommendations in the area of, right now, at the close of a calendar year you have a shorter timeline reporting than you do on a month-to-month basis in terms of getting stuff back, and we're looking at conforming that one.

So those are some of the areas that we are currently looking at. The question of interests and penalties is the one that has the greatest concern. I think you'll find a degree of difference. Our agents have one clear cut view which you reflected and I believe you'll hear from the Auditor General and the Department of Finance a concern for potential revenue loss and it's a clearly debatable issue. We are going to try to assess the impact of whether we have lost sales as a result of our lost outlets, and if we have then we may come back with a recommendation to allow us to modify that interest and penalty to try to avoid further loss. We'd like to wait until we have a couple of more months of data on the losses before we come back with that recommendation.

CHAIRMAN CONDIT: Thank you, Mr. Bontadelli. Ms. Carmichael, did you have a comment to make, a statement?

MS. CARMICHAEL: Only to answer any questions.

CHAIRMAN CONDIT: Okay, I don't think there's a lot of controversy on this item and maybe we'll go around the room. You state your name and if you've got a comment to make, if you have a written statement we'll put it in the record but please don't read it unless you think it's necessary.

MR. SJOBERG: I have no written report. We did issue a report in April of 1987. I'm Kurt Sjoberg, Chief Deputy, Auditor General. And Mr. Willis' characterization, I think, is on point. We have done the second of the three audits that are mandated of the Department in the bill.

The third and final audit will be started in January, and in the second audit that we performed, we did see significant improvement over the first in that most of the compliance areas were being met.

There is an area of disagreement. The disagreement rests within a legal interpretation of the effective date of the bill and whether or not the agents at the time of the bill's enactment, which was an urgency statute, September thirtieth, whether or not that would affect the agents' licenses which were already outstanding. We're not attorneys and therefore we rely as a legislative audit function on the Legislative Counsel Bureau for legal interpretation. Legislative Counsel did opine that the agents who were in place on September 30 were subject to the bill, and therefore we concluded accordingly. My understanding

is that...., and we also said that if the Department disagrees with Legislative Counsel Bureau that they should obtain an opinion from the Attorney General and act accordingly. It's our understanding that at least an informal opinion has been given them and whether or not a formal one has been issued I'm not familiar. That was the essential area of disagreement. It was in the effective date, and we relied on Legislative Counsel Bureau and we recommended that either the Department follow Leg Counsel or obtain their own opinion from Attorney General.

CHAIRMAN CONDIT: Mr. Cutting?

MR. CUTTING: I'm Dick Cutting, Chief of the Audit and P.E. Unit of the Department of Finance. Very briefly, both of the units under my supervision have issued reports covering the internal activities of the Department with particular emphasis on the administrative and licensing function. I want to bring this point out that we had probably two or three of the most critical reports the Departments have had in a long time. I don't think there was almost anything that we commented on that didn't need to be fixed. I'd like to report that the Department has made great progress towards implementing a number of these recommendations. They've installed improved systems. We, in fact, the Department, and this is unusual, have furnished one of the senior staff members to work under contract with the Department to assist in making these improvements. The Department has worked on various task forces to help in the formulation of procedures. We don't get into policy, only the procedures, to make sure that these things are being done.

The one area that's still open and the one which we will be reporting to the Legislature after the first of January has to do with the new cost accumulation system. The system is in effect, however we are giving a very detailed review of how the results of that particular system have come out. We're not now satisfied, but we will certainly give you a report at that point.

What I do want to emphasize is that progress has been made. There are many plans in place, and that we are going to continue to monitor the progress of the Department to see that these recommendations are done. If you want any more details on this I have my staff member, Sandra Weiss, who has worked on this for almost two years. We'd be glad to speak to any specifics.

CHAIRMAN CONDIT: Ms. Weiss doesn't have any additional comments? She's here for questions?

MR. CUTTING: And general comments as the committee may wish.

CHAIRMAN CONDIT: Okay. Mr. Bontadelli, did you have someone else here?

Okay. I think we're all pretty much in agreement on this. Ms. Allen, do you have a comment or question?

ASSEMBLYWOMAN ALLEN: Well, I just want to say some very positive things, basically. I think also some very positive things have come out of 2436. I recall back when I introduced AB 2436 and it's another one of those things where you look at legislative oversight and what's happening, what we really wanted to happen in the Legislature when we put the law into being, and there was a lot of problems. That's already been talked about

here, and we won't go back over old ground. I think, then, and I'd like to point out to the Department, I know that there's tremendous resistance on 2436, and opposition all the way through, by the Department of Finance as well as by the Department of Fish and Game, and even with that, once the implementation of 2436 came in and it was law I want to commend, first of all you, Olga. I think you did some marvelous things with the implementation of the law. Certainly Mr. Willis, and others of you who have worked on it. Sandy Weiss has also worked very hard in that area and what you have done, and I know we're not fully there with automation, and I know that you're still working hard to get that and hopefully we can do everything we can, the Department of Finance included, to get that on board and on line for you because I believe that the bill speaks for itself and now the implementation of the bill speaks even louder. I think the fact that you were able to bring in \$200,000 in one year with the provisions of the bill that provided the penalty and the interest. It says that we have a problem, number one, or you wouldn't have been able to bring in the penalties and the interest, and hopefully that will be a deterrent and hopefully that will go down in the future from the standpoint that they'll be paying on time. The fact that that money has been on consignment, it's never belonged, and I think we need to make this very clear. That money has never belonged to the license agents. It was strictly consignment. They were never to commingle it with their other funds. There should never be a problem of having that money go down to a license agent or the

licenses, license sold and money returning to the License and Revenue Branch or the Department ultimately. There should not be a problem, because it's not to be commingled. It's not money that they made from a sale. It was consignment and was to come back to the Department, and I believe the fact that you have done as good as you have in implementing it, and especially without automation, it's to your credit, and I want to commend you for that, really, and I know that was done in the light of a lot of questions when I did this bill, and I know that. So, that even has more meaning, I think, that it's turned out as well as it has.

CHAIRMAN CONDIT: Thank you, Ms. Allen. Okay, thank you folks very much. Some of you are going to be on the next section, which is Section Four, but if you'll take a place in the front row I'd appreciate it. This is kind of my section, the next section.

ASSEMBLYWOMAN ALLEN: If I may, they heard that the problem was raised on the loss of license agents, and I believe that when Ms. Carmichael and (inaudible) were in my office, we talked about that, and that some of that's been not all that bad. The fact that some of the license agents have left us is probably we've lost some that were a problem for us anyway in collection. Some of the ones that we've lost, it's not been because of the bill necessarily, but because it's weeded out the requirements, has weeded out some license agents who weren't really responding in the way they should, so I don't feel discouraged by the fact we've lost some of the people we're maybe better off having lost anyway.

CHAIRMAN CONDIT: Okay, I want to ask..., I'm going to start with Mr. Gaither, who's the Supervisor from Lassen County. Is Supervisor Gaither here?

Why don't you..., if you'd like to stay up here, some of you are welcomed to do so. If you want to get in the front row. I'm going to start sort of at the bottom of the list. I'll get back to you in just a few minutes here. You're welcomed to stay up here if you'd like as long as our...(inaudible)

You're aware of what this section is? This is the..., yeah, of X5B deer tags. Take a seat right in front. Do you have some things you want passed out?

Sergeant!

She's got it all right. Would you mind us swearing you in, Supervisor?

MR. MOGER: Mr. Gaither, would you raise your right hand? Do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth? Thank you, Mr. Gaither, would you please be seated and state your full name for the record?

MR. JOHN R. GAITHER: My name is John R. Gaither, G-A-I-T-H-E-R.

CHAIRMAN CONDIT: I think you're going to have to move that mike up a little bit, Supervisor.

MR. GAITHER: Is that better?

CHAIRMAN CONDIT: That's better. Yeah, scoot it up close to you. I don't think they can hear. Is it on? Okay. Proceed, sir.

MR. GAITHER: Okay.

Mr. Chairman, I've got a short statement I'd like to read, that you're getting in your packet, because I think it's significant. In the testimony I'm going to be giving today and tomorrow, it states that I will be testifying on three different items at these hearings: the issuance of the X5B deer tags, private lands management program, and the deer herd management program. I believe that these are not different issues but simply separate parts of the same issue: the mismanagement of our wildlife and natural resources by the Department of Fish and Game.

I believe that management is a total concept...

CHAIRMAN CONDIT: Excuse me, Supervisor. I can't hear you. Can we have the sound on the mike...? Do we have any sound on this mike? Try that one. Put them all in front of you and one of them will have to work.

MR. GAITHER: Thank you. Do you want me to start over?

CHAIRMAN CONDIT: Please, yes.

MR. GAITHER: I'll be testifying at these three different items at these hearings: the issuance of the X5B deer tags, the private lands management program, and the deer herd management program. I believe that these are not really different issues, but simply separate parts of the same issue; that is, the mismanagement of our wildlife and natural resources by the Department of Fish and Game.

I believe that management is a total concept which must include all aspects and all variables of an issue. I'm sure that

you will find, as I have, that the Department of Fish and Game has ignored the most important part of management: we, the people.

I have no doubt that you legislators are more keenly aware than most that any law which you pass must be acceptable to the people as a whole or it will not work. It will be ignored or, in the worst case, it will be openly flaunted. This is the case in Lassen County. Many residents whom I have asked the question, "Which deer zone did you get this year?" reply "See one." This means "See one, shoot one."

In some cases, the response is, "I don't buy tags anymore. I just go hunting." I even had one ranch manager tell me that one year he didn't get drawn and he doesn't believe in poaching so he penalized Fish and Game two deer.

I realize that this may sound like we are just a bunch of outlaws, or that we are going out to get ours one way or another. It's not true. A lot of these people have lived and hunted all their lives in Lassen County and feel that they have a right to hunt on their own land or in their own back yard. I support this wholeheartedly because I am a small landowner and with only five acres of alfalfa I can't hunt in my back yard unless I get lucky. I sincerely hope that out of these hearings will come legislation which will correct the inequities that now exist in the Department of Fish and Game, and I would now like to address the X5B issuance of tags.

In my testimony I've briefed them simply because it's extremely difficult to tell you everything I would like to tell

you about what's going on in Lassen County. The first item is the fairness, the equity, and the morality involved in the issuance of the X5B deer tags. Number one, it has never been applied fairly or properly. At no time have the people of Lassen County been given a fair and equitable shot at hunting in their own back yard simply because we live there. If we don't get drawn on the first draw we don't get a tag. That is the way the system is set up. It goes into a first choice draw, a second choice draw, a third choice draw instead of them drawing a tag and saying, "This is your first choice. It's full. We go to your second choice, your third choice," as many states do, they throw it into the second barrel. So what happens is that if we don't get on the first draw we don't get it. And if you want to go back and check the applications you'll find that on mine I usually put down two or three applications and then I write "poach" in the other applications. It's not that I do poach, but to show my disgust with the system. It's not fair to us.

Local residents and landowners are discriminated against because we live there. The way the system is set up you have to own 640 acres of land in order to get a landowner tag. That's one square mile. Many cities in this great state of ours don't have that much land. What happens is that this person is denied the right to hunt, no matter how many deer they may have on their property or what the situation is with them. Some I've talked to are older people that have lived there all their lives that can't go out and hunt in the wilds as the rest of us and they're denied the right. I believe that everyone has a right to hunt on their own land.

Secondly, because of the way they changed their system, you have to be a landowner of deed. In other words, your name has to be on the deed to hunt your ranch. A friend of mine owns 1700 acres of land. It's a family ranch. His name is on the deed. His mother's name is on the deed. They have, both, spouses and neither of their spouses can hunt on their own ranch. This is absolutely ridiculous. To suggest that this person, because they are not on the deed have no rights as a landowner, I think, is wrong, especially when they have many deer on their ranch. I've hunted it myself. Some hunters are drawn year after year. I know that this committee's looking into it and I know that there are some discrepancies as to whether or not people have hunted. I've met people in Lassen County that tell me that they see the same people year after year. And some of these repeat hunters say it's who you know in Sacramento. Now maybe they're bragging. We all want to puff up a little bit, but when they say, I've talked to the person, and I have personally talked with a gentleman who told me that his daughter works for Fish and Game and her husband gets an X5B tag every year. Now, he didn't have to tell me that, and this was about five years ago, but he did, and when this happens the local people say, "Why should we be concerned with the laws and the regulations that are supposed to regulate the deer they're not fair?"

Poaching has increased. Local people are just going out in their back yard. It doesn't make sense when you have an area such as X5B, which has, maybe, 50 residents in it and these people are told, "you can't hunt on your own land and you have to go to the coast to hunt." It's not fair.

The quota system first started in X5B as a test and was immediately declared a success. The quota system as applied is not supported by Fish and Game's own studies. I have attachments to this statement that I gave you in which studies were done in 1977 by Fish and Game. One of the first attachments is concerning the goals of that herd, and it says this is the part about the goals, without the use of the quota system, it states that the removal of the quota system from the zones of X5 a and b will probably result in a decrease to the herd. I can state to you people, I don't care what Fish and Game says, that herd has decreased with their quota system. It's not going in leaps and bounds. It's in deep trouble. And it's not the hunters. The buck kill, it says, in the harvest the buck kill will probably rise above present levels and then drop to those levels experienced before the quota system and continue to drop until the population declines. Their own study in 1977 says that that won't happen. They talk about herd composition, that is the buck ratio drops to a point where there will be insufficient bucks to remain in the population to breed the majority of the does, that it will result in a lower herd productivity. That's not the case. It doesn't happen that way. As many ranchers will tell you, you only need so many bulls to service a herd, and the same goes for a deer.

The Number Two attachment comes out with the '77 study and it states at the bottom of it, which I've put in yellow for you, it says that this chart shows conclusive proof that buck kills depend upon fawn survival. Whenever fawn survival goes up,

the buck kill increases accordingly. When fawn survival goes down, the buck kill declines one year later. Fawn survival is the primary problem. Although many would like to believe that low buck ratios are the problem, our data does not support this theory.

The next item talks similarly, and it says this is a buck fawn ratio per hundred does in 1977-78. It says there appears to be little correlation, if any, between buck ratio and fawn production. This indicates that buck ratios are generally adequate to complete breeding of a herd, therefore buck ratios, even though low during some years, are not a major factor influencing the fawn production. As a matter of fact, there is evidence which suggests that high buck ratios are detrimental to fawn survival because during the winter months when food is scarce, and we have a hard winter, the big bucks get the food. The weak fawns and does are the ones that starve to death.

There are some other statements there. There are some attachments which show you buck/doe ratios. At the time that Fish and Game put a quota system on X5B there were fourteen bucks per hundred does. It's in their own studies. That's more than sufficient to service that herd. A 1963 study of a deer herd which is the Doyle deer herd shows that nine and a half bucks per hundred does adequately services a herd.

So what's the reason for having this tight quota system? It's not to save the herd. The herd is declining. What's the reason? I believe at this point in time, it is to increase the private land management to make it more feasible. Those deer in

X5B are selling right now on the market for \$2500 and down to as low as around \$1250, depending upon the ranch. There are several problems with this, which has an economic impact on Lassen County. We have..., they have taken 85% to 90% of the hunters out of X5B. For the local businesses, which are small, depend heavily upon those, they lost 80% to 90% of their business during that period, which equate to probably half to three quarters of their annual income. Unemployment has increased. Businesses have folded. In total, in their quota system throughout the county, they have taken \$2 million to \$4 million annually out of our economy.

BREAK IN RECORDING: MALFUNCTION OF EQUIPMENT.

...we don't want everyone from the flatlands in Lassen County, but we would like to see more than we have now. We can handle more hunters through proper deer management. What's happening in Lassen County is predators. Preditation is a factor to which Fish and Game states that in their studies they have no knowledge, that they have very little information. You talk to ranchers, we have a mountain lion problem and yet our Fish and Game biologists say we don't have a mountain lion problem. We have a coyote problem and our Fish and Game biologist says we don't have a coyote problem. This is a serious issue, and out of all of it we want to see our deer herds grow and prosper. We don't want to wipe them out. They are a benefit to us and, believe it or not, most of us hunters like to just watch them

sometimes, just see them grow, to watch a buck get bigger. I know ranchers that actually take and ear notch fawns so that they can track them through their lives.

My recommendation is that the people that live within a zone should be allowed to hunt within that zone. They're doing it anyway. It's not practical to say you can't hunt in your own backyard, drive a hundred or two hundred miles as we have to do. It doesn't happen. Some of the biggest mule deer I've seen come out of a B Zone where there are no mule deer.

Increase the number of tags in X5B. It can handle it. But what they want is a successful hunt. Before the quota system there were 5,000 hunters in that X5B zone, there was a ten percent success rate. That's 500 bucks taken. Now, there's 900 or 650 out there and they've got a 60% success rate. That's 350 bucks. A hundred and fifty difference is no big deal. Okay? They're losing that many to poaching.

Additionally, they should limit vehicle access, and if nothing else they should computerize their drawings as they said they were and lastly, that is we're going to have a quota system which is going to deny us the right to hunt in our backyard, it should be applied to everybody and you have a "bite the bullet" type of system where you put in for a zone and if you don't get drawn you don't get a tag, because that's what's happening to us.

Thank you.

CHAIRMAN CONDIT: Thank you, Supervisor Gaither. Thanks for waiting all day. We'll see you again tomorrow, I take it.

MR. GAITHER: In the morning.

CHAIRMAN CONDIT: Questions? Mr. Costa has a question.

CHAIRMAN COSTA: Yes, I'm glad you raised the comments. I think it's timely, given the fact that we're going to hold the hearing tomorrow on the deer management question.

You talked about the problem dealing with predators, and you talked about the problems dealing with adequate management. You made reference to it but you didn't actually say it about people hunting in their own backyards. That has a different term, or I've used the term in a different fashion, it's called poaching I guess. Correct?

MR. GAITHER: Well, what I'm saying is that if you have a ranch of 1500 to 2000 acres, and you want...

CHAIRMAN COSTA: No, I understand that. I have a ranch, and I understand that and I have a cousin that has some extensive properties in the West Coast range of mountains and he doesn't allow any hunting on it and we have deer on that property and love to watch them and such, but if you take it and you take it illegally it's poaching, right?

MR. GAITHER: Oh, no question. And I think that's something that...

CHAIRMAN COSTA: Do you think that accounts for the problem?

MR. GAITHER: Not a significant part as far as the actual taking..., what happens is that it's kind of spread through the community. We've got a lot of young people in our community now that are...

BREAK IN RECORDING: MALFUNCTION OF EQUIPMENT.

Fish and Game wrote a young guy just down the street from me, there was a deer killed by a car, I knew the patrolman who did the incident, and so a young boy came along and took the hide and the deer and he was cited in the court. It cost him \$250 for having illegal possession of a deer. In the next county that's quite acceptable.

CHAIRMAN COSTA: Okay. We're going to deal with that tomorrow. (Inaudible) but you talked about there should be more license...

MR. GAITHER: No question.

CHAIRMAN COSTA: And my question to you is, and it deals with a larger question, but on X5B, I was kidding the Chairman, but we hear the same argument on another issue and that is with the lottery, people say there ought to be more smaller prizes, and of course some people say, "No, we want more bigger prizes," and of course you always get a difference of opinion between people in terms of whether or not you made the argument, whether or not you had a 10% successful hunt or whether or not the hunters who are hunting actually have a 50% or better successful hunt, and I guess it depends on whether or not you have a license or not and you chances of getting a license.

One of the concerns that I heard, and I didn't hear you make any comments on it earlier, is that there is some sort of favoritism being used toward receiving an application for that X5B permit, that if you sent them all in one envelope... I had

someone call my district office that said there were allegations made that, in fact, it was rigged somehow.

Do you have any comments on that?

MR. GAITHER: Well, yes, and I didn't include it in here. Like I said, there's so much to cover, but it's my understanding that they allow chaining of letters, so that..., you can only put six in one envelope. In my case we have eight people in my family group that hunt, and we put six in one, two in another, and oddly enough my nephew, who's..., my brother happens to be a federal prosecutor and is going to look into it because he is very upset that out of the six his son didn't get a tag. He got a rejection, and yet they were stapled together and put into a single envelope and he was very upset.

CHAIRMAN COSTA: But how many got some?

MR. GAITHER: Out of the group of eight seven of us received tags. What I'm saying is that they were all stapled together, six in one group, two in the other. He was one of the six. He didn't get a tag.

CHAIRMAN COSTA: What kind of process do they go through when they...?

MR. GAITHER: Who knows? Who knows what they do? I mean...

CHAIRMAN COSTA: Well, that's going to be explained to us in a few minutes.

MR. GAITHER: Well, I'm just saying, it's a Ouija Board and what happens is that, from what I understand, those of us that aren't close to Sacramento, that don't hear all the goodies,

we put them six to an envelope, and I understand they chain them together in six or eight...

CHAIRMAN COSTA: Well, we got a lot of complaints. As a matter of fact, one of the reasons I got involved in this hearing, Supervisor Gaither, is because of this very issue and we got a lot of complaints from my district, and we went over and watched them, a staff person went over and watched them do the drawing and there is an Auditor General's report that audited the drawing that just came out and it indicated that this year everything was okay. There was no problem from their point of view. In 1985 they issued seventeen licenses that they can't account for.

But I think one of the major problems is that the public is not confident in the way the drawing is being held. They're suspicious of it, and one of the problems that we believe is that, and I'm going to ask the Department to do this and ask why they can't do it, is why don't they read all the names? What they do is they read the name of the person who sent it in and they may have six names on the back and they never read them. Those people never go out and say, "Well, I just put my name on someone else's but I didn't really send it in," and I think that's where all the speculation, all the discussion out in the community goes like wildfire, because they didn't read the names off and there's some suspicion created. There may be some problems, because in 1985 there were seventeen tags that were unaccounted for, but I think basically it's suspicion and it could probably be stalled if they were to read all the names when

they open those envelopes up instead of reading one name and then leaving it to someone's imagination about whose name is on the back. I think they ought to do that.

MR. GAITHER: I think part of it, Mr. Chairman, is from personal contact. A lot of people are under the delusion that those of us that live up in the wild and woolies are kind of backwards and not too smart, and...

CHAIRMAN COSTA: We know that's not true.

MR. GAITHER: Well, I have a person in business up there that said they personally talked to an individual who hunted X5B three years in a row, okay? And then this individual was drawn two years in a row, but the person was there three years and this individual talked to that person and that person, basically, made the same statement that I've heard from other sources that it's who you know in Sacramento. Where there's smoke there's fire, and I have been out there and I have talked to people. I even ran into some people, I was hunting out there, that were going through that were extremely suspicious in nature and they're hunting because they showed up on the second weekend, which nobody does in X5B unless they..., but when I talked to the one gentleman, and this was, say, about five years ago, before I even thought about taking over this headache, but some people are very candid. I mean, and they let it be known that tags are available. I was let know about four or five years ago that black market tags were worth about \$1500 on the streets in San Francisco if you knew the right people.

So, there has been a lot of that, but those people count up there. They can count past ten, and there's more people hunting X5B that are drawn. Now, if they're out there poaching, you know, hunting illegally, and we do get those people up from Sacramento and from other areas who say, "Hey, I want to go hunt, I'm going to hunt. If I get caught, I pay the fine." But they're out there hunting. I've been told by some individuals of people within the Department of Fish and Game that have come up there hunting on private ranches, etc. Games are being played and the people up there have just had it. They're saying, "We're told in 1975 and 1976, when they started bringing this up, that the deer belong to everybody in the State of California, and the people of Lassen County can't have preference." But when you've got a guy that's got a ranch and there's deer on that ranch and he can't hunt it and somebody can come up from down below and shoot it in his backyard, it's upsetting. We're not saying to you people we should be first and everybody else second, but we're not even being treated equal.

CHAIRMAN CONDIT: Supervisor Gaither, thank you very much. Some of the accusations that you've heard, I've heard the same ones and that's why we're here today and I appreciate it.

MR. GAITHER: One of the things I had here and I think it's important for you people to realize, you people on the committee, there are..., I don't have enough for everybody. What these are are maps of the area in color, and it shows you how much of Lassen County is public land. Two-thirds of Lassen County is public land, BLM Forest Service, and this is what I'm

going to speak about tomorrow, but also, when you look at X5B, you look at these other issues because they're all intertwined. There's no way you can separate them, but if we're going to have a quota system let's make it right, let's make it fair, let's make it work. Right now it's not working. Fish and Game biologists can come up here and say there's X number of deer out there and I can bring you in a rancher that rides that every day that says they're full of it, and that's the thing that's important, that what we're getting in the reports, what we're being told, is just not accurate, and we have other problems out there. Thank you.

CHAIRMAN CONDIT: Thank you, sir, and we'll see you tomorrow.

I'd like for Mr. Bradley, the Director of Organized Sportsmen from Lassen County... Is he here?

UNIDENTIFIED SPEAKER: Yes. Mr. Chairman, I'd like to testify tomorrow on the...

CHAIRMAN CONDIT: Private? That's fine. Okay, Mr. Riggs? Mr. Riggs is not here? That's fine. Mr. Hunt? Wildlife Manager Eldridge Hunt, better known as Red Hunt? How about Kurt, you want to come back, and maybe what you should do is before we let Mr. Hunt speak, why don't you give us a brief report of the Auditor General's report and then we'll let Mr. Hunt speak.

Everyone but these two gentlemen have been sworn in?

MR. MOGER: He has not, no.

CHAIRMAN CONDIT: Okay. Why don't you go ahead and then we'll swear them in. Identify yourself, please.

MR. SJOBERG: I'm Kurt Sjoberg, Chief Deputy Auditor General. With me is Murray Edwards. He was an auditor on our audit of the X5B and he can answer any questions should there be any that I'm not able to respond to.

CHAIRMAN CONDIT: Okay, why don't we swear him in, then?

MR. MOGER: Mr. Edwards, raise your right hand. Do you solemnly swear or affirm that the testimony you're about to give before this committee is the truth, the whole truth, and nothing but the truth?

Thank you. Would you please be seated and state your full name for the record?

MR. MURRAY EDWARDS: My name is Murray Edwards.

MR. SJOBERG: The report we issued this morning is the work we did at your request to review the circumstances surrounding the Department's management of the X5B program. As has been discussed, it is an extremely popular zone in the eastern area of Lassen County. The popularity, I think, can be seen each year wherein this year over 7300 rifle hunters applied for the 550 tags that were available, a one in thirteen chance. The lottery, certainly, in application.

Your committee, the committees have received numerous allegations regarding individuals who have had tags year in and year out, as many as six were alleged to have received tags in six separate years. We could not review any records of the Department prior to 1984. So it is important to emphasize that the recordkeeping before 1984 just does not exist within the Department of Fish and Game. So we're able to tell you about

what exists from 1984 to 1987. Only three of those years has there been, were there results available to us. Obviously this last, 1987, the season just ended. So, we're really focused, then, upon those four years. We can tell you about the number of applicants who have received tags two years out of those four, three years out of those four, and no one received a tag four out of the four years.

All of the tag issuances that we saw were within statistical probability. That is to say, from a pure mathematical perspective, the number of individuals who received tags were well within the ranges of what one could expect with the number of applicants and the number of tags issued each year. Now, there were four specific persons who various individuals shared with you, had received tags in numerous years. So we looked very closely at those four and found that, in each case, they received tags in only two of the four years that we could review. Each of the four at least received a tag during 1985 and then they were scattered throughout the other years as to their second year.

There was a problem in 1985 which you've alluded to, the seventeen tags which could not be accounted for. The problem was identified only after we, the auditors, actually went and reviewed the kill records, that is, those tags that are returned to the Department by successful hunters, and in X5B that's been right around 50% each year. So we can expect that about half, this assumes that there is an honest response to the Department of those successful tags, and in reviewing those for 1984, 1985,

and 1986, we did find the problems that we found in 1985. There were seventeen tags that we basically identified in the kill records that were actually at Honey Lake, which is up in Lassen County, and those seventeen tags, we could eliminate seven of them as to reasons similar to the one that was explained, wherein a group of, say, six had been together, stapled together, and only five received a tag. The Department will consider that sixth person and in 1986 and 1987, people will actually look to see if there's a staple through the application and some other kinds of things too, similar names and that kind of thing, to suggest that there truly was a sixth in the hunting team. In those instances they will issue a tag.

So that was basically what we could explain away. There are ten, however, that remain unexplained and it is our belief that there is a high probability that those were the act of one clerk within the Department in 1985. We have recommended to the Department that a criminal investigation take place with respect to that clerk and his activities. I'm sure the Department can respond to you as to what they have planned to do on that.

CHAIRMAN CONDIT: Okay. Is it appropriate for you or for Mr. Hunt to explain for the edification of all of us in this room how the drawings take place?

MR. SJOBERG: We have only reviewed one drawing, and we did look at 1987, and this was during the period of time before the audit was approved...

CHAIRMAN CONDIT: All I really care about is just for the people in the room so they physically know how it takes

place. I don't mean to take a lot of time. Are you going to do that, Ms. Carmichael?

Okay. Then you've been sworn in so why don't you identify yourself and go at it.

Mr. Hunt, if you'll excuse us for just a moment, we'll get right to you.

MS. WEISS: It's going to be hard to do so that the audience can see, but I'll speak as loudly as I can.

CHAIRMAN CONDIT: You're going to have to have one of those microphones. Can't you take one of the mikes off that holder there so that....? No, I guess it doesn't work that way. Just hold it. Yeah.

MS. WEISS: Okay, what I wanted to do was just briefly go through the drawing process with you so that you'll understand how it works. The first step of the process of course is the purchasing of an application at a license agent or a Department office. The second step is...

CHAIRMAN CONDIT: How much does it cost?

MS. WEISS: Pardon me?

CHAIRMAN CONDIT: How much does it cost?

MS. WEISS: The cost of an application, it is \$10 for one deer application, \$22.50 for deer applications.

The second step of course is making the selection, either of one or two deer depending on what the hunter buys. Mailing the application to the Department. We receive the applications, we determine whether or not the applications are for a draw zone. If they're for a non-draw zone, we go ahead and

issue the tag. For example, A Zone doesn't go to drawing so we go ahead and issue an A Zone tag. If it is a draw zone, X Zone or an S, which is a special hunt, we hold the tag, sort it according to zone, and hold on to it for drawing.

We stop receiving tag applications by the drawing deadline, which last year was July 7. We verify and make a final count of the applications. We seal up the boxes the day before the drawings. I'll also go back and explain how we mark parties and how we mark applications. Do you have a question?

CHAIRMAN CONDIT: Yeah. You kind of moved that a little quick there. Between steps four and five, what you've got there is the entire..., am I understanding you correctly?... the entire deer tag application process and the distinction, when you get to X5B, occurs between four and five A?

MS. WEISS: Correct.

CHAIRMAN CONDIT: All right, because a non-draw zone would be for a traditional deer application process, right?

MS. WEISS: Sure. For example, either the A, B, or D zones...

CHAIRMAN CONDIT: Okay, and when you go down to 5B that you're really going for the X5B, and then you go into the application sort...

MS. WEISS: Sorting, correct,...

CHAIRMAN CONDIT: ...to hold for the drawing, and then you have your deadlines and your verification of your counts, and then you seal all of the boxes up, and then at Step Nine, if you've got your tickets, your applications, in the right

envelopes, then it works. Is that how I'm to understand it? Is that what I've been told? Is that how it works?

MS. WEISS: Okay. No. Let me back up and explain to you what happens with the applications and the envelopes.

CHAIRMAN CONDIT: It's been a long day. If you don't add some humor to this, we'll all...

MS. WEISS: That's okay. We receive an application, or we receive a groups of applications, depending on how they come in. If it's a draw zone and they submit..., for quotas over a hundred they can submit up to six in a party, if they do that we date stamp them the day that we receive them in sequential order. We circle on the applications the number in each party.

CHAIRMAN CONDIT: And if they're stapled together?

MS. WEISS: They're supposed to come in stapled together, yes. In the same envelope. We will staple them if they're not stapled. And then we sort them and hold them for drawing.

CHAIRMAN CONDIT: Educate me to what the advantages would be. I'm a real novice. What would the advantage be? Why would you want to put it in a envelope together unless you just wanted to hunt together, I guess.

You want to hunt together?

MS. WEISS: Yeah. Probably half of the applications come in as parties.

Okay. We conduct the drawings in a public forum. The boxes which were sealed up the night before are opened in public view. We put the applications into a drum. We request a

volunteer from the audience to actually do the pulling of the applications from the drum for us. We call out the name and the city, typically of the first application that we pull out. For example, of a party we would just call out the first name and city. I think your idea is fine, and that's not something we've traditionally done.

CHAIRMAN CONDIT: What was that? I missed that.

MS. WEISS: His idea was to call out the names of every party member.

CHAIRMAN COSTA: You thought that was a good idea, didn't you?

CHAIRMAN CONDIT: Oh, I thought that was a great idea!

CHAIRMAN COSTA: Well, the only reason I think so is that I think it would restore some confidence in the process, because I think when you leave there and people didn't hear the name and they hear that other people that they didn't hear the name, it just..., it would help restore a little confidence in the process.

MS. WEISS: I think that's easy enough to do.

Okay, obviously not everyone is going to get drawn for their first choice. They can make up to six choices. So all the unsuccessful applications get resorted for second choice. If the zone on second choices are filled, then we go ahead and hold them for a third round drawing that we can do. If the zone is open, and there are more applications than we have tags available, we go ahead and go into a second choice drawing, or a second round of drawing, and then we just basically repeat the drawing cycle.

CHAIRMAN CONDIT: Okay. Is that some additional information you have there?

MS. WEISS: What I have is the procedure that we implemented in 1986, which I think have improved inventory control on the tags because what the hunters submit is an application. What we issue them is a tag, and it's that tag inventory that gets real critical and we've developed and implemented some procedures that, I think, ensure some controls and I think are partly if not solely responsible for the clean bill of health we got on the 1986 and 1987 drawings.

CHAIRMAN CONDIT: Well, while you're at it, though, why don't you explain other ways a person can get a tag from X5B, besides the drawing. There are other ways you can get....

MS. WEISS: Yeah, there are two other ways. One is through a private lands management...

CHAIRMAN CONDIT: That means you own the property...

MS. WEISS: No. That means that a landowner owns a piece of property that's been approved by the Commission as a private lands management club operation.

CHAIRMAN CONDIT: And then he has..., that individual has obligations, is that correct? To do certain things to the land?

MS. WEISS: Yes.

CHAIRMAN CONDIT: And we'll talk about that tomorrow.

MS. WEISS: Yes, there will be some testimony on that procedure. And also, the other way is through the Cooperative Landowner Program that we have, which...

CHAIRMAN CONDIT: Okay. All right. Well, then, is Mr. Hunt the person I should ask why we require the Lassen County folks to have 640 acres before they qualify?

Okay.

MS. WEISS: Did you want to take a look at the procedures?

CHAIRMAN COSTA: Yeah, on the accounting procedure, the Auditor General's report indicated that ten X5B deer tags were issued and not accounted for. What, I'm sorry, well, that's already in the record. Have you taken any administrative steps to ensure that all the tags can be identified and accounted for in the future? Have you set up a new security system?

MS. WEISS: Yes, those are the new procedures...

CHAIRMAN COSTA: (Inaudible).

MS. WEISS: Pardon me? Well, those are the new procedures that I'm prepared to cover with you if you'd like to see them, which were implemented in 1986.

CHAIRMAN COSTA: Would you be looking at setting up a computer program to identify hunters who are selected for X5B tags in future years...

MR. SJOBERG: Not just X5B, Mr. Costa. That's one of the items that I think Mr. Willis mentioned in the last presentation. We've got this team which includes representatives of the Department of Finance on it now that is helping us go through and set up a whole system of automating our files, automating our draw, making perhaps a single application form that will be usable for all of the zones to totally automate the

drawing to eliminate a lot of this hassle in the future in terms of how it's been done in the past. That is one of our goals. The question is whether we can get the reports back, get the fiscal stuff together to implement it, in 1988, or if we're going to have to wait until 1989. We'd like to do it in 1988. We may be compelled to wait until 1989 on the implementation of that.

CHAIRMAN CONDIT: Okay, I apologize to the committee for having to retread that ground. As long as we don't have legislators draw for the districts... I think that'd be a bad idea.

MS. WEISS: Okay. Two of the things that we're doing that we've been doing since 1986 and that weren't necessarily done in the past is, as I said, as each application arrives we date stamp it. There's a deadline after which you cannot get into a drawing, so it's critical to know when the applications are received. As I said, if it's an individual it's stamp dated "RECEIVED." If it's a party application, we stamp date them in sequential order and we indicate right on each application the number in that party, so if it comes apart in the drawing we can always go back and verify that they should have had a tag.

We sort the applications by zone and every day we count them. We keep a running tally. We do a final verification and count after the drawing deadline, and for most of these procedures we're now requiring staff signatures, so we know where accountability can lie.

As I have mentioned in the earlier presentation, we seal the boxes of applications prior to the drawing and that process

also has a staff signature required. We open the applications up in public view. We put them into the drums in public view. We use public members to actually do the drawings for us. We call out names and cities out loud of the successful applicants. After we call the name and city out loud, we number stamp the applications in the order that they are drawn, which is another critical factor for going back and determining whether or not you got a tag legitimately through this process, and a way to distinguish these tags from corporate landowner tags, or private lands management tags.

The successful applications subsequently are sealed for issuance at a later date. After each drawing we get the signatures of both the employee that was involved in calling out the name and the public member that actually does the drawing.

I'll now move to the tag inventory itself. The tag inventory is locked at night. The entire branch is on an alarm system and of course it's locked up at night and it's patrolled by the state police. Within the branch we also have a lockable area, and that's where the inventory is now stored, which is also something new that we do. The tag number that we issue..., you know, we'll have an inventory of, for example, one through eight hundred..., the tag number that we issue to the successful applications matches the order in which that application was drawn. Another way to control for inventory and be able to check quickly whether our inventories are as they should be.

There are only two supervisors authorized to distribute controlled tags, and that would include an X5B tag. The tags...,

we've gone to a system where we issue these tags in the evening under constant supervision so we don't have the daily confusion of receiving the mail and all the other things that go on during the day. The tag inventory is verified in writing and signed by the issuance supervisor every night, so every night they've got to check that inventory.

We also have the supervisor in charge of that overall section make unannounced checks on the inventory as well, and documents that. Tag exchanges and duplicate tags are approved by a supervisor in all cases, but they're issued by a different employee, so we try to separate duties that way. The exchange and duplicate tag inventory is controlled, which was not the case in the past. Exchange tags are not used for X Zones. We use the actual zone tag, and that's critical because in the past basically any of our department offices could issue exchange tags for whatever zone someone wanted an exchange tag for and assuming that it was a legitimate exchange. We no longer allow that. We issue regular zone tags and again are controlling the inventory throughout the whole process so we know exactly what we've issued, and all X Zone exchanges are documented and we know who did it and why. So, that's basically what we're doing, which is quite different from what we did in 1985, and I think why in 1985 there were some exceptions that weren't found in 1986 or 1987.

CHAIRMAN CONDIT: I have just a couple of questions. Why didn't you include on that, after you do the drawings, that you post a list of public..., that the public can view, to see who won? I know that's been asked for and...

MS. WEISS: Well, there's a couple of issues here. First off, we're doing this manually at this point. At the point that we're computerized, then that becomes something that's easy to do quickly, and even depending upon what system you had, it could be done that day. To manually produce a list like that under the current system that day would be difficult at best.

CHAIRMAN CONDIT: Well, it could be done within that week. You could have a list available for people. I understand that right now there's no list once you do the drawing, is that correct?

MS. WEISS: We do, yes, we do have a list for the critical, the key zones, that we use internally for enforcement purposes. There's an issue of confidentiality that I probably should refer to legal counsel on in regard to the...

MR. SJOBERG: Okay, that's something that we should go over and if it's possible understanding the concerns, we'll see if we can accomplish that in the future.

CHAIRMAN CONDIT: Okay. The other thing I want to ask the Auditor before he leaves, is it unusual for them not to have records past 1984?

MR. SJOBERG: The retention requirements in each department we visit vary, and in some instances they are quite voluminous and the Departments throw them out without concern for subsequent audits and desires to go back five and six years. I don't think there's a single criteria that applies to all agencies. It would be what their policy was. We just finished an audit of the University of California, Berkeley, relative to

their admissions and found that they didn't keep admission records back one year. The hard data. So it does vary and it would be up to the individual policies of the department.

CHAIRMAN CONDIT: Okay. I thank you very much.

MR. BONTADELLI: I'd just like to note that this procedure that you see in front of you is one that we implemented after a problem that we encountered in 1985. I was not in this zone. We did encounter a problem with a tag in X7A that we found based on a warden's stop in the field, which was a tag that should not have been issued. As a result of that, we tracked it back and we did take disciplinary action against the individual who was involved. He was demoted and was no longer working in that area, and in accordance with the recommendation of the Auditor General's report, we have asked one of our wardens to go back and look at the specific points of criminality that might have been involved in ten tags that are there. If the Auditor General's report specifically requests that the Attorney General might be appropriate, we would have no objections to that if they wish to do so. We, too, would like to get to the bottom of it. This procedure was implemented after we found that one error to try to keep it from happening in the future.

CHAIRMAN CONDIT: Is this the tag we're talking about now?

MR. SJOBERG: Yes.

CHAIRMAN CONDIT: Okay. Just another question that was brought to my attention, because I have some specific complaints that were made to me on this..., it was told to me that they

changed these tags at X5B, a guy will go hunting for a few days and then he'll give it to his friend. Do the wardens have a list in X5B of the people? Do they carry it in their car?

MS. WEISS: Yeah, we provide each region a list of the..., as I said, the critical zones.

CHAIRMAN CONDIT: So you'd be able to nail them right then if they've got a deer and they're checked with the tag, they have a tag but they give a different name?

MS. WEISS: Yes, assuming they had a list with them they can verify, yes.

CHAIRMAN CONDIT: Okay.

MR. SJOBERG: As an aside on that assumption, Mr. Chairman, we did some interviews in the field of field wardens and asked that question and found that while they were unsure as to whether such lists existed back at their offices, they didn't have them with them.

CHAIRMAN CONDIT: They didn't have them with them? Well, maybe that's a good suggestion, Mr. Bontadelli, you might want to...

MR. BONTADELLI: I'd be glad to look into it. I know they get this in the main office, and a call through our system will get you the answer, so...

CHAIRMAN CONDIT: I can give a specific, well, several examples of where apparently there's been some problem where they've actually shot the deer, they've had the deer tag of someone else and gave, and filled out the form because they had to show their ID and they were never pinched at all for that.

Okay, anything else? Mr. Bontadelli, do you want to bring up..., Mr. Hunt, too, I guess is going to make a presentation. He has not been sworn in. I guess, since he's the last person we should swear him in too.

MR. BONTADELLI: I'd like to just mention that Mr. Gaither raised the entire question of how we got to the quotas in this area. I think it's important to go through that briefly with you.

CHAIRMAN COSTA: Can I see your map of the deer hunting area that shows the different regions? I just want to look at it right now.

MR. MOGER: Mr. Hunt, would you raise your right hand, please? Do you solemnly swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

MR. MOGER: Mr. Hunt, would you raise your right hand, please? Do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. ELDRIDGE HUNT: I do.

MR. MOGER: And would you, in a microphone please, state your full name?

MR. HUNT: My name is Eldridge Hunt.

CHAIRMAN CONDIT: Mr. Hunt, do you want to proceed with your testimony?

MR. HUNT: Yes. Mr. Chairman, members of the committee, my name, as given before, is Eldridge Hunt. I'm Chief of the Wildlife Management Division for the California Department of Fish and Game.

I'd like to provide a brief introduction to the subject of issuance of X5B deer tags even though the subject has been introduced prior to my testimony, but I think it may help answer some of the questions that have been asked to date.

I will explain how, and why, Zone X5B came about and what has happened to the deer and the deer hunting opportunity in this area, but behind me here is a map of X5B just simply to be sure that everybody knows the zone that we're talking about. The other zones are indicated there, but the topic of the discussion, of course, is X5B.

With concern about declining deer numbers, crowded hunting conditions on many popular areas and poor hunting success that resulted in changes in the deer management program, beginning in 1975. We need just a little touch of history, I think, to emphasize why these changes were needed and came about.

It was that year that the Department developed a draft deerherd plan. This draft was modified by public input received during special hearings conducted statewide, and there were twenty some of these special hearings. This plan was finalized by the Department and approved by the Commission in 1976. The plan, basically, is a blueprint for managing deer on a herd-by-herd basis. This umbrella plan prescribed the development of individual deerherd plans and the elements that each plan must contain, so all of our deerherd plans have the same element in them.

The Fish and Game Commission adopted a policy directing the Department to manage deer on a herd-by-herd basis in 1977.

That same year the Legislature enacted changes in the deer management statutes that mandated herd-by-herd management also. So in 1978, following these mandates, hunting regulations were promulgated on a zone-by-zone basis. These zones were comprised of a deer herd, or groups of deer herds, with similar characteristics. No hunter quotas were established that year, and that was 1978.

In 1979, the Commission established the state's first quota deer hunting zone, and this was X5B, the subject of our discussion here for a portion of the range of East Lassen deer herd. Setting the X5B quota was an action taken in response to several factors. The first was that the buck-doe ratio was extremely low and approaching the point where reproductive failures might be expected. It was down to three to five bucks per hundred doe at that time. The hunters' success was extremely poor. It was approximately 5%. The popular hunting areas were overcrowded with hunters that resulted in a high rate of illegal activity, and this illegal activity particularly involved the harvest of forked horned bucks which were illegal in Northeastern California.

In response to these concerns the Commission adopted regulations resulting in the restriction of deer herd hunter numbers, in X5B to 500 where as many as 3500 or more hunters previously concentrated their efforts. Hunters were selected by drawing, as we have seen.

CHAIRMAN COSTA: What were those numbers, once again?

MR. HUNT: Pardon me?

CHAIRMAN COSTA: What were those numbers, once again?

MR. HUNT: The numbers when we started out were 500 and there was a minimum in previous years of 3500 hunters hunting the same area and it got as high as 5,000 or 6,000 hunters.

CHAIRMAN COSTA: And how big an area are we talking about?

MR. HUNT: That's the eastern part of Lassen County. Will somebody give me the square miles involved in that?

It's a sizeable area, but as was explained before, it's available to hunters, it's open country, and virtually all of it is in public land. So it was very popular. It was a place hunters could go to who didn't have to worry about getting permission to get on the areas. It's nice country, big deer, it was the iced cream spot to go to to hunt deer in California, and lots of hunters went there.

So, as we indicated, the hunters were selected by drawing, and this action by the Commission marked initial steps in linking deer herd management to hunter number regulation and a successful effort to improve conditions for deer and the hunting public.

As a result buck to doe ratios and hunter success in X5B improved directly and have remained at high levels. For example, in 1986, the buck to doe ratios were 24 bucks to 100 does. You may remember, before X5B quotas it was three to five per 100 does. Hunter success in 1986 was 51% compared to 5% prior to X5B.

In conclusion, creating a restrictive quota on hunter numbers in X5B has provided for a healthy deer herd and a high quality diversified use of the deer resource. Most hunters support herd or zone management. X5B, as we indicated before, is extremely popular with hunters and a measure of this popularity is that odds of being drawn exceeded fifteen to one and I think you heard earlier that in some years it was even higher than that. The benefits of the hunter quota in X5B are apparent. Sex ratio of the herd, hunter success, quality of the recreational experience, the rate of hunting regulation violations have all been positively affected.

Now, if I may, I might respond to the question, Mr. Chairman, that you asked earlier regarding the cooperative areas, and again, a little history may be of importance in this particular case. When we got into the zone areas, we patterned our zone quota after Nevada, which was in a complete zone system. In the state of Nevada, landowners at that time, and I believe it's still the case, are not allowed to hunt on their own land unless they're drawn. We thought a similar situation might occur in California, and that was one of the things that we had to look at in going into this program: the right of an individual to hunt on his own land. Well, the cattlemen were particularly concerned, and they came to the Department and said, "This is not fair." We went to the Attorney General and said, "What is the situation here?" The Attorney General gave us an informal ruling that was, yes, special consideration could be given to landowners if they provided special benefits to deer, so that was the basis

behind which this special consideration was given. Then there was a need for a vehicle in which to put this in place in that year. On the books at that time there was a cooperative hunting area program provision that originally involved the hunting of pheasants. It was adapted to the deer hunting situation and that provided the vehicle, and in this regulation the minimum amount of land that qualifies a landowner to get a tag is 640 acres. He must have fee title. There's one landowner in X5B that has taken advantage of this provision and two tags have been issued for that zone.

CHAIRMAN CONDIT: I may have missed it. What was the rationale for the study and the 560 acre limitation?

MR. HUNT: Six hundred and forty acres. It was in the original law and it appeared to be a reasonable amount of land when you consider that the landowner has to only hunt on his own land. He can't go out and...

CHAIRMAN CONDIT: Well, when was the law put into place...?

MR. HUNT: The law was put into place, originally, many years ago. It was adapted in 1983 for the deer situation, and totally in the zone..., the other part of that acreage figure is the zone 5,000 acres and we felt that there would obviously be at least 5,000 acres of good deer habitat.

CHAIRMAN CONDIT: Well, Mr. Hunt, what is your response to Supervisor Gaither's comment that people can't hunt on their own land, and even if your name's on the title your spouse or your son or daughter can't hunt?

MR. HUNT: If you so desire and want to hunt on your own land and your name is fee title and you do have 640 acres, you can do it.

CHAIRMAN CONDIT: If you own under the 640 acres, though, you can't.

MR. HUNT: Under the 640 acres, you could not and one of the things...

CHAIRMAN CONDIT: If you own 620, then you can't do it.

MR. HUNT: You can't do it. That's correct.

Those acres could be adjusted. One of the things that we had to face in looking at this, and some of the things that were actually proposed by individual hunters were moving into Lassen County and buying an acre or two just..., that's a consideration and factor...

CHAIRMAN CONDIT: No question, you've got to be reasonable.

MR. BONTADELLI: Wait a moment. Just to respond, the 640 acre requirement is an arbitrary number, selected by the Fish and Game Commission through the public hearing process. As it turns out, our sampling, is it is also a fairly practical number. Currently, there are approximately 400 parcels statewide that fit into this category, 640 acres or greater. Of these, 32 statewide have actually applied for tags under Section 554, which is the section of our regulation that governs this particular area. If that figure were reduced to 160 acres, for example, the number of parcels that would qualify would jump to over 1500 parcels immediately, hence the issuance would mean less tags available to

the public, so we tried to do on that thing, what the Commission did through the hearing process, was to adopt a number that was large enough to ensure what the AG had said we had to have, some potential benefit to the deer herd, having a large parcel maintained and open it up for hunting in a critical deer wintering range area of at least 5,000 acres, which zone X5B contains, and then under those circumstances we would issue it. The number is subject to change, and the regulations are reviewed annually through the hunting process in front of the Commission.

CHAIRMAN CONDIT: Was consideration given Lassen County and the average size of land and all that consideration at all?

MR. BONTADELLI: We adopted a statewide regulation as we did with the zone system ultimately, so therefore we did not specifically look at Lassen County and its impacts.

CHAIRMAN CONDIT: Okay, that may be something we want to look at. Are you finished, Mr. Hunt? We appreciate your being here today. Mr. Costa, do you have any additional comments to any of these folks?

CHAIRMAN COSTA: A couple. The references made by the (inaudible) witness as to the comment that they reduced the amount of deer tags so that you could guarantee the success of the hunt, and you've made some comments as to the amount of tags that you have available under X5B, and I'm wondering, this guy was kidding me referencing the lottery, but I mean there's some parallel in the sense that there has to be, I guess, some practical limitations on how many tags you ultimately issue, how much the land will support and what's realistic. What do you base that decision on?

MR. HUNT: Maybe the easiest way to explain that is start at the issuance of the tags...

CHAIRMAN COSTA: Let me begin. Are you trying to guarantee, as was referred by the other witness, a 50% ratio or a high success rate of a hunt?

MR. HUNT: That wasn't the original intent.

CHAIRMAN COSTA: Do you look at that figure?

MR. HUNT: We look at that figure annually.

CHAIRMAN COSTA: On what the success rate of the tags issued versus those that came out with game?

MR. HUNT: Yes. The thing that drives the issuance of tags primarily is the herd performance, goals that are established and deer herd plans, and we'll get into that tomorrow, we have plans for all of the deer herds in California.

CHAIRMAN COSTA: Yeah, I'll be interested in that. We had some comments as to what were sufficient amounts of bucks to doe ratio.

MR. HUNT: To kind of give you a feel for how it works up there, I'll start with an example that's pretty close to the actual situation in X5B. The first thing you want to do is to find out the number of bucks that can be safely harvested, and that's a difficult thing but we won't talk about that right now.

Then you divide the bucks available by the harvest success, and that tells you the number of tags to authorize. For example, a situation similar to X5B: if we decide that there's 250 surplus bucks that can be taken, and we know from past experience that the hunters' success is about 50%, then there are

500 tags authorized. Now, the real key to the thing is getting back to that first thing. How many bucks are available?

CHAIRMAN COSTA: So you try to guarantee about a 50% success rate?

MR. HUNT: No, this is just the way that it has worked out there in this particular zone on the basis of what has happened...

CHAIRMAN COSTA: But you said that if there are 250 harvestable bucks..., maybe I missed part of the logic.

MR. HUNT: The key...

CHAIRMAN COSTA: Then you would issue about 500 tags.

MR. BONTADELLI: Right. The key is to determine how many bucks are available. Once that is done you look at the success rate historically in the area and the vicinity. If it is 50%, then you can issue 500 tags if 250 are available. If your success ratio is lower, you can issue more tags to accomplish the level of harvest that you desire...

CHAIRMAN COSTA: So you do actually use 50% as your threshold level?

MR. HUNT: We use that because that has been the success rate in that particular area. Now, had we issued more tags and been more lenient, the success rate would have been less and the whole system would perpetuate itself, but some of the zones...

CHAIRMAN COSTA: Then you ultimately deteriorate your herd to a point where it would...

MR. HUNT: Well, when you look at the different herds are set up for different purposes, and the one that X5B..., and I

want to make a point that these..., that's there a considerable local and statewide input in the development of these plans and they're looked at annually, and that drives the program that you want to have in terms of the buck-doe ratio. The two most important factors in coming up with this figure are the buck-doe ratios after the hunting season and the recruitment, the young deer coming into the herd, so once you have those objectives that tell you that you want to have so many bucks per hundred does, so many can go out in the field and actually see what's there and determination how...

MR. BONTADELLI: There are two driving factors. Let me check this..., buck-doe ratio at the end of the season and fawn survival are the two critical issues that we look at because they determine the health of the herd, therefore we take those two back from that to the number that can be safely harvested, and then look at the hunter ratio and that will generate the number of tags that are issuable.

CHAIRMAN COSTA: Okay, so when the season, I see the gentleman back there keeps shaking his head no, when the season is done this year, then you'll go back to the area, for example let's take the X5B area, and you'll do a count on how much harvestable bucks are there...

MR. HUNT: How many bucks per doe are there after the season. That's the most important factor...

CHAIRMAN COSTA: And the next spring, what the fawn survival ratio is.

MR. BONTADELLI: That tells you what's coming on.

CHAIRMAN COSTA: Over the last couple of years, approximately, in the X5B zone area, has the herd either declined, has it increased, or has it remained the same?

MR. BONTADELLI: I can give you a general response to that. It has remained about the same, and Mr. Mansfield is here, and Mr. Curtis in the audience that gave you the specific numbers for those years if you'd like them.

CHAIRMAN COSTA: You'll agree with his comment that it's remained about the same?

MR. MANSFIELD: Yeah, the buck ratios for the last couple of years went up from 20 to 24 bucks per 100 does in the postseason population. Fawn ratios have slightly increased as well.

CHAIRMAN COSTA: I see. And so how much harvestable buck do we actually have in this area, approximately?

MR. BONTADELLI: Our number of tags went up from 500 to 640, so therefore, on the formula of 50%, we have roughly 320 harvestable bucks in the area.

CHAIRMAN COSTA: All right. I'll have some questions tomorrow, Mr. Chairman, as it relates to the broader aspects of the deer management program in California and mainly questions. My intent, and I'm really glad that you brought this issue before us today, is that I think that the Committee has for a long time not provided enough time in the area of working with the Department and trying to come up with a comprehensive deer management program in California comparable to states such as Texas, Colorado, Louisiana, other states that I'm somewhat

familiar with, and I think it's really time that the Committee take time with the Department to put together that type of a comprehensive management program. I was interested to hear that in this particular zone, maybe, the amount of harvested buck has increased, but it's my understanding that most of the other herds in the Sierras and elsewhere in the state have declined over the years. I know part of that is because of habitat. A lot of the habitat has been taken as a result of growth and development. I know part of that is for other reasons that involve poaching and some other factors that we have to deal with, but it seems to me that we aren't doing enough in terms of really attempting to restore the deer herds in California, and I think that your willingness to bring the X5B issue up really speaks to the broader issue and that's what we need to deal with tomorrow, so I want to thank you for your time and your interest.

CHAIRMAN CONDIT: Thank you folks for being here today. We appreciate it. It is after 5:00 and we've completed the agenda. I know that we've got some requests from people in the audience who would like to come up and make a statement, and you're welcome to do so but I want to tell you that we've been up here for a long time and we'd like for you to make them as brief as possible and not duplicate what's already been said today. If you want to agree with something that's been said today, say "I agree with it." And then say whatever new that you have to say. So if..., we'll call on, is it James Clayton? And then Bud Hemman, Mark Palmer, and we do this again tomorrow. We have some other issues again tomorrow, so make sure that you've checked the

agenda tomorrow. We're not bringing up whatever subject matter you're going to bring up tomorrow. Mr. Clayton, you want to identify yourself? We're going to swear you in if you don't mind. Do you mind? Okay.

There's someone from the Department who would stick around, I'd appreciate it. We may have some questions.

MR. MOGER: Mr. Clayton, would you raise your right hand, please? Do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. JAMES CLAYTON: Yes, I do.

MR. MOGER: Would you please be seated and state your full name for the record. It may help to spell your last name.

MR. CLAYTON: I'm James Clayton, C-L-A-Y-T-O-N. I'm Director of the National Domestic Ferrets Association, and the reason I'm here today, I've got really three reasons. I'm going to shorten it up as much as I can. One reason is to give the Assemblymen the copies of the transcript of all the research I've done on domestic ferrets in this state.

CHAIRMAN CONDIT: Okay.

MR. CLAYTON: So you can educate yourselves.

CHAIRMAN CONDIT: Out of the blue binder that you passed out.

MR. CLAYTON: Yes, there's a lot of stuff I'm sure you don't know, and hopefully you'll have the time to read it all. Probably not all today, though. I want to bring it to your attention that we've got a problem in California and it's getting

bigger all the time. Fish and Game is seizing domestic ferrets from people, and they're doing it so much and the tactics that they're using on people., and I've got a few of these here that I'd like to bring this to your attention. I feel that they're in violation of their own codes. I'd like to state some of these facts to you while I'm here. Then we'll get into whether the ferrets are domesticated or wild, second. Okay?

Yeah, I'm just going to cite a few cases. I have a lot more. No one has time to hear them all now, but I'll have the information available to you later.

CHAIRMAN CONDIT: Please go ahead.

MR. CLAYTON: On May 21, 1987, Fish and Game showed up at my front door with a search warrant to confiscate my pet domestic ferrets, which they apparently had a difficult time obtaining from a judge. They then proceeded to destroy all of my cages, equipment, and conducted a five hour search on my property. I was arrested, handcuffed, booked, and jailed, all for what they call a misdemeanor, which is the same fine as littering. The affidavits that they produced to secure the search warrant prove that they spent eleven months of surveillance concerning one person's domestic ferrets. I feel that's a hell of a waste of taxpayers money, to spend eleven months of man-hours going after somebody's pets. They've got better things to do, I'm sure.

I'm speaking on behalf of the California State taxpayers when I say that this type of activity is not only a terrible waste of Fish and Game manpower, but also a terrible waste of

taxpayers money. It does end here, because as a result of the events that took place after that concerning my pet domestic ferrets we have filed criminal charges against the agents involved as well as a civil suit against the State of California. We obtained a superior court order after a special hearing, and I've got a copy of that here today for anyone that wants to see that, that protected my animals from being harmed and stated that they must be returned to me for transportation to the Ferret Rescue Center. They violated the first court order by not returning my animals to me. I had to get a second court order. When they finally did return my animals after sixteen days of holding them, some of the animals that they returned were not even mine. They were someone else's. I was also told that eight of my animals had died. Under the present California administrative code, it states that the owner, or bailee, must have the option to remove the animals out of state to a safe place.

CHAIRMAN COSTA: How many did you have?

MR. CLAYTON: Eight.

CHAIRMAN COSTA: Eight. Had you received complaints from your neighbors?

MR. CLAYTON: Oh, no. No complaints. No, they weren't bothering anything.

CHAIRMAN COSTA: How did you have these, in your backyard running free or did you have them..., what kind of arrangement?

MR. CLAYTON: No, I had special cages for them.

CHAIRMAN COSTA: They just...?

MR. CLAYTON: Yeah, I've had them for years and they had their own room, in other words. I had quite a set-up for them.

CHAIRMAN COSTA: Kind of like...?

MR. CLAYTON: A lot of people do. Pardon?

CHAIRMAN COSTA: No, go ahead.

MR. CLAYTON: We tried to send the animals to several ferret rescue centers in Nevada, Arizona, Oregon and Oklahoma, and Fish and Game refused our option. They fought us to destroy the animals. That's my case. I could go a lot longer on that, but I'm going to change to another case. If you have any questions, feel free to ask me.

This is Case Two. This year in Chico California, two Fish and Game officers entered the home of Zaira Cosgriff without obtaining a search warrant first and destroyed her two pet domestic ferrets. California Administrative Code 671.3 states that the pet owner has the right of a noticed hearing before they can destroy any animals. Again, they must give the owner the option to remove the animals to safety. The woman was attending her husband's funeral on that day.

Case Three, last July in Barstow, California, Fish and Game raided Ms. April Landmeyer and took her eleven pet domestic ferrets from her. They refused to give the owner her right of option to remove the animals from the state. That article is on Page 49 of the transcript, right out of the newspaper. Instead they held her pets for ransom. They insisted that she pay a boarding fee at the rate of \$38.50 a day. The last I heard they

are..., this is Fish and Game, are billing her for over \$2,000 and that bill is increasing every day.

Case Four, in August of 1985, Fish and Game came across two pet domestic ferrets at Lake Folsom. Brown's Ravine, to be exact, by the boat launch. In front of a large crowd of people they picked up the white make ferret and threw it on the ground, smashing it on a rock and killing it.

I am speaking for over half a million pet domestic ferret owners in the State of California, not to mention well over one million pet ferrets who cannot speak for themselves.

CHAIRMAN COSTA: There are half a million?

MR. CLAYTON: Yes, sir.

CHAIRMAN COSTA: Ferret pet owners in California today?

MR. CLAYTON: Yes, sir.

CHAIRMAN COSTA: Really?

MR. CLAYTON: That many. There are over five million across the country.

CHAIRMAN COSTA: How many of them are legal owners? How many of them are legal ferret owners?

MR. CLAYTON: I have no idea how many of them are legal because they stopped issuing permits for them stating that they're wild animals and they were not going to give permits for them.

CHAIRMAN COSTA: Why did they do that?

MR. CLAYTON: I'm not quite sure of the year they did that. I know of people that do have permits for them though.

CHAIRMAN COSTA: Okay, but you don't have a permit?

MR. CLAYTON: No, I do not.

CHAIRMAN COSTA: How do you know that there's a half million ferret owners?

MR. CLAYTON: We've done a lot of research. We've done research all the way across the United States. As you can see in the transcript, a lot of that information is in there in front of you now. We're absolutely outraged at the disregard for animal life on the part of our State Department of Fish and Game as well as their disregard for their own administrative codes.

Now we can get into the part of whether they're domestic or wild. Fish and Game has never been given the jurisdiction, to my knowledge, to classify a domestic animal, a wild animal, when historically speaking and all scientific research shows that these are domestic animals, not wild. Now, if I'm missing something here someone should enlighten me because I did not know they had the power to do that. Also, if you will look on Page 31 of the transcript, the existing California Administrative Code is there. And it's very confusing. A lot of people come into this state...

CHAIRMAN COSTA: That's not unusual with the California Code.

MR. CLAYTON: A lot of people come into the state with these ferrets and, if you read that line and are not familiar with it, your first reaction would be "I'd better get some ferrets because cats are illegal." You can read it yourself and leave it up to your own interpretation of that, but it's very confusing. I had an English teacher with a Master's Degree go over that.

CHAIRMAN COSTA: That was probably a mistake.

MR. CLAYTON: She said it's the most poorly constructed sentence she's ever seen.

CHAIRMAN COSTA: You've obviously never worked in the Legislature before.

MR. CLAYTON: I can cite a lot of these pages, but I know you're tired and don't have the time here, but I've got so much scientific research in this.

CHAIRMAN COSTA: I can see that, and you've obviously done a lot of homework. What I'd like to do is..., the basic point that you're making is that a lot of pet owners in California own ferrets, and apparently many of them illegally, at least according to the current statutes. Now, you may feel that shouldn't be so, but...

MR. CLAYTON: I'm not the only one. There's a lot of lawsuits arising from this, and the taxpayers, they're fronting it, you know.

CHAIRMAN COSTA: And obviously we should try to sort this out and it's incumbent upon us to try to do that. Your basic gist of your entire summary is that we, in California, ought to make it legal for you, as a ferret owner, to under a certain jurisdiction be able to maintain your pets.

MR. CLAYTON: Absolutely.

CHAIRMAN COSTA: Okay. And Department, do we have someone here that can speak on this issue?

You've already been sworn. You know you're under oath.

MR. JOHNSTON: Yes, sir.

Mr. Chairman and committee members, Dewayne Johnston for the Department of Fish and Game. Every state has a basic responsibility to look after the welfare of its native wildlife. In California, this responsibility is invested in the Department of Fish and Game. The harmful effects that exotic animals have on native wildlife are well documented, and we've got White Bass, which we've just spent millions to get rid of, and a variety of other things like that.

CHAIRMAN COSTA: Are you saying that ferrets aren't native to California?

MR. JOHNSTON: The Department feels that native wildlife are of such a high value to the state that we can't gamble on the welfare of these animals. Allowing individuals the privilege of having exotic animals as pets is such a gamble.

CHAIRMAN COSTA: But you're saying ferrets are not native to California.

MR. JOHNSTON: They are not native to California. California prohibited all mustelids, including ferrets, around 1935. They're prohibited because the Legislature considers them to pose a potential threat to native wildlife, agricultural interests to the state, and to the public health and safety. Ferrets are classified as wild animals in California because our Fish and Game code defines as wild animal "any animal which is not normally domesticated in this state as determined by the Commission." Ferrets are illegal in the state of California. They are not normally domesticated in California. Therefore, they are illegal. The Commission has determined that ferrets are

not normally domesticated. It makes no difference how long the animal has been domesticated in other areas. The argument is...

CHAIRMAN COSTA: So some cases, as he indicated, that there are people that had permits for domestic ferrets.

MR. JOHNSTON: There are permits for domestic ferrets in California. The law at one time allowed neutered males to be...

CHAIRMAN COSTA: How long ago was that?

MR. JOHNSTON: I believe the section that allowed neutered males to be possessed in California was repealed by the Commission at the June meeting this year. This is becoming a growing problem with the popularity...

CHAIRMAN COSTA: Some people were grandfathered in?

MR. JOHNSTON: We grandfathered in those that chose to get the permits. That weren't very many. I'd also like to point out that California's agricultural industry would be opposed to such...

CHAIRMAN COSTA: No, I understand they would. They eat chickens, I understand.

MR. JOHNSTON: They eat chickens. They're considered to be a hazard to the poultry industry, so based on current statutes, if there are a half million ferret owners in California...

CHAIRMAN COSTA: Do you think that's true?

MR. JOHNSTON: I don't think it's true. I'd have to see something to do it. We do find ferrets, occasionally roaming in the wild. We do find ferrets, and we've had accusations about some of the activity that the gentleman described before. I've

urged the ferret owners on more than one case, we would not tolerate an officer taking and smashing a ferret against a tree or whatever they describe, and I invite them to notify the Department when that happens...

CHAIRMAN COSTA: That doesn't sound very becoming of an officer...

MR. JOHNSTON: That doesn't sound very becoming of an officer to me, but nobody's bothered to come forward and give me specific details of these instances at this time. Just in summary, ferrets are currently illegal in California. There's a legal procedure for these people to work through to see if they can get it changed. They've been prohibited in California since 1935. I don't know how a law can be clearer. They're prohibited.

CHAIRMAN COSTA: Mr. Clayton, final comment.

MR. CLAYTON: I have a rebuttal here. You brought up the Department of Agriculture. If you will turn to Pages seven and eight of the transcript, this is right out of the 1988 rules for the United States Department of Agriculture federal register. It states, "U.S.D.A. Rule for 1988 recognizes that the domestic ferret, Mustella ferro, as a domestic animal, a pet." Page eight, also out of the federal register, "pet animal means any animal that has commonly been kept as a pet animal in family households in the United States." The ferret has been in California for over 300 years. Down at the bottom of the page, "retail pet store means any outlet where only the following animals are sold or offered for sale," and they list several

animals there, the last of which you see is domestic ferrets.
This is a federal agency.

CHAIRMAN COSTA: So you're saying we're not in compliance with the federal statute?

MR. CLAYTON: Yes.

CHAIRMAN COSTA: Well, that's interesting.

I'm serious, it's..., we obviously need to bring some clarity into this, and I appreciate your coming forward, and we'll look into this matter and see if we can talk with the Department and find out if we are actually in conflict with the federal law, and if we are then obviously you will do well in court, I suspect, and you do have a case pending, is that correct?

MR. CLAYTON: Several, yes. Other people do too.

CHAIRMAN COSTA: All right. Well, we'll have to make a determination of whether we ought to let the cases you have before the court be resolved before we get any action that we should take, or whether we should try to make some sense out of it beforehand. Usually, what we tend to do when a matter is pending in court, is to allow the court to make what determinations, especially when it involves a difference between state and federal statutes, before we look at taking any state action, but I really appreciate your bringing this information before us.

MR. CLAYTON: Could I bring one thing up about..., you were mentioning to let the courts handle it. I'd like to cite the Mendocino case that has recently gone through.

CHAIRMAN COSTA: I'm familiar with the Mendocino case.

MR. CLAYTON: Are you? They classified the ferrets as personal property because they are domestic animals. Had they been wild animals they would the jurisdiction of the state.

Page two in my transcript is the agreement. I'm just asking the Department of Fish and Game to strike an agreement with the ferret owners not to destroy the animals anymore. They know nothing about ferrets. We're ferret experts, and we would like them to turn the animals over to us for safe shipment out of the state, not to harm the animals, and I don't think that's unreasonable on our part.

CHAIRMAN COSTA: Well, maybe we can sit down and have a discussion with the Director and see if maybe that's a possibility. How's that?

MR. CLAYTON: It sounds fair.

CHAIRMAN COSTA: All right. Very good.

MR. CLAYTON: Thank you.

CHAIRMAN COSTA: We have two other people. Do you want to testify or do you want to wait until tomorrow, Mr. Hemman? You said you want to talk about the deer management?

Okay. All right. You're going to talk about two different subject matters. You're not going to talk about the same thing tomorrow you're going to talk about today?

Okay, and you're going to be brief.

MR. MOGER: Excuse me, Mr. Chairman. Your name, again, was? Mr. Hemman. I don't have my pencil out so I'm going to have to ask you again as soon as we're finished swearing you in,

if I may. Do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

Now, would you, in the microphone please, state your name and I would appreciate your spelling the last name again.

MR. EDWARD HEMMAN: My name is Edward Hemman, commonly referred to as "Bud" Hemman, H-E-M-M-A-N.

CHAIRMAN COSTA: Please, Mr. Hemman.

MR. HEMMAN: Okay. I'll just be real short on this. What I want to talk about a little bit is law enforcement. I think this gentleman had some good points. It's the conduct of the law enforcement we're looking at.

As you gentlemen know, I've had a recent case with the Department of Fish and Game. You've received that complaint, there will be a follow up on that, and rather than get into that I would like to continue with the written documents of that. I will keep you updated on those and consider that part of my testimony if you would. It would save me from going through all of that. You're both aware of the case?

CHAIRMAN COSTA: Yes, I'm aware of your case, and we will incorporate that...

MR. HEMMAN: Yes, I would appreciate that, and I will keep you updated. We do have a lot of bad conduct out there among the officers. We have them jumping out of bushes and stepping in front of vehicles, drawing firearms, this type of conduct we cannot tolerate. But one of the biggest problems we have right now is when someone's got a complaint against the

Department of Fish and Game they have a form that they fill out, and this goes to the Department of Fish and Game, basically Dewayne Johnston. He investigates his own men. Well, I'm going to tell you something: that don't get it. That is not the way to do it, because it comes out basically the same every time. Our officers are always right.

What we need is some type of legislative committee, or body, or even for the Department of Resources, Gordon Van Vleck's office. Maybe we could get all of the investigations of the complaints channeled through, maybe, the Department of Resources. We need to do it someplace other than the Department of Fish and Game. We're not getting good results.

We have a lot of other problems. Like you said, it's late. I got really fired up here about 9:00 this morning. It is getting a little bit late here today. But I think we need a full investigation into the Fish and Game wardens. Now, as you heard Dewayne say, they're going to set up an academy to teach their officers the law. Well, that's fine, but I think we need a teacher.

CHAIRMAN COSTA: We also said it takes about four years for them really to get up to speed to be really good wardens.

MR. HEMMAN: Well, they must not have anybody over three years in because they just don't have that. What we have is we give them one area, you'll have four or five different interpretations of the law in the same county, you may have three or two different interpretations of the law. Now, I've been there. I'm a sportsman. I hunt a lot. I've encountered these

problems. I also represent several hundred sportsmen. We encounter their complaints all the time. We have complaints of Fish and Game coming into camps, occupied and unoccupied, searching through their tents, searching through their ice chests, searching through any vehicle that's left in camp. We have literally had complaints of officers coming in and kicking people at midnight in their sleeping bags, literally, physically, kicking these people getting them out of their sleeping bags and searching their tents.

CHAIRMAN COSTA: You don't like the use of their SWAT team, in essence. I don't know what they're called. What is the name...?

UNIDENTIFIED SPEAKER: Special Operations Units.

CHAIRMAN COSTA: Special operations Unit.

MR. HEMMAN: Well, being as you mentioned that, Jim, you know, a Fish and Game undercover agent hunted with me for two bear seasons, not because they suspected me of being violator of the law, merely for my political input, both before the Assembly, the Senate, and the Fish and Game Commission.

If they're going to come out here and investigate somebody, they should have reasonable cause or at least some kind of cause, probable cause, that that man is a violator, not because he speaks up against the Department of Fish and Game. I do that all the time. I've done that since 1975. Fish and Game is very tired of my doing that. But I will continue to do that...

CHAIRMAN COSTA: That's your right as a citizen, Bud.

MR. HEMMAN: Absolutely, but I should not be punished for that right by being investigated, by being lied to, by being threatened, and I have been threatened,

CHAIRMAN COSTA: Who has threatened you?

MR. HEMMAN: Dewayne Johnston has told me personally, and so has Hal Cribbs, that if I didn't quit making so much..., if I didn't quit arguing so much with them that they would stop the use of dogs in hunting. Now that's a threat, and I ain't going to stop just because of that. I have that right to do that, and that's what the public hearings are for. That's what the Fish and Game Commission hearings are for. Right now we have a lawsuit, myself as an individual and several sporting clubs against Fish and Game on the laws that they have.

Now, when we get a determination on those laws I will be passing that on to you so you can review the outcome of that court, regardless if it's in our favor or their favor. That's not the point. The point is that those laws are so loosely written that anybody can interpret them any way they want. The Department can interpret them in any form they want to. And one day they will interpret them one way, another day they will interpret them another way.

CHAIRMAN COSTA: It was argued here earlier that to do a better job with the management of the resource that we ought to add more wardens in the field. How do you feel about that?

MR. HEMMAN: I agree with that. I think we actually need more wardens, but what we need..., it's like a police department in a small city, which I have been, an officer in a

small city, and it's not how many officers you have out there per se once you have an adequate number, it's how they deal with the people. You know, if you can get the respect of those people and those people will support you. You can take one officer with 100 good people behind him and he's a giant. He can serve the same capacity as ten. And that's why we have a low number of law officers in Fish and Game. Originally, back before, in the early seventies on back, you didn't need a lot of wardens because you had citizen participation and cooperation. If there was somebody out there violating, they knew the game warden personally, they told him. The Fish and Game warden used to stop in your camp and instead of harassing you--they were pretty intelligent people in those days--they'd look around your camp and they could see if there were any violations. They didn't need to harass you.

CHAIRMAN COSTA: Have a cup of coffee with you.

MR. HEMMAN: Have a cup of coffee and talk to you, and you know, you kind of give a guy a chance to open his mouth and he'll spill his guts so he'll tell you more than what he wants to sometimes. That's how this program worked, and every officer out there gathered more information at the camp and was able to do his job better. Now we don't have that. We don't have the cooperation. There's a lot of friction out there. You've heard a lot of it today. You've heard it in deer. It's the same in everything, fish and everything else. We have got to break that down and we need an investigation into the wardens, we need an honor code set up, we need a line of communication. And for the sake of time I'll stop there unless anybody has any questions.

CHAIRMAN COSTA: Mr. Condit has a question or a comment. I don't know if Mr. Moger, you're in a better place to answer that or who might be in a better place to answer that particular question.

CHAIRMAN CONDIT: Well, the comment about I guess the wardens coming in and..., you say they harass people or whatever they do, did the police departments investigate the citizens' complaints against them. Don't they have some mechanism by which someone reviews and..., does the Department have the same kind of system where a panel of different people besides themselves review the complaint?

MR. MOGER: Yes, they do.

CHAIRMAN CONDIT: That's not working?

MR. MOGER: No, they have a review board.

CHAIRMAN CONDIT: Review board. That's what I'm trying to think of. Who's the review board made up of?

MR. MOGER: Mr. Condit, I can't answer for the Department. I'm not aware that they do have one. Most major city departments do have an internal review board.

CHAIRMAN CONDIT: That's the word I'm looking for. Would you like to respond to the question?

MR. JOHNSTON: Mr. Chairman, all agencies that employ peace officers in the State of California are required to have a system set up to investigate citizens' complaints. It goes from, like Mr. Moger said, like a city the size of Los Angeles, where they've probably got a review board to a small city like Tulare, where you've got...

CHAIRMAN CONDIT: Well, do you have a review board?

MR. JOHNSTON: We basically have a system whereby we have our supervisors investigate our citizens' complaints. They're sent out to the field. They are investigated.

CHAIRMAN CONDIT: Is that similar to what police departments do? They review their own complaints?

MR. JOHNSTON: Yes, it's very similar to what police departments do. Some of them have what we call an Internal Affairs Division. Some of them don't. And it depends on the level of a complaint. If we get a complaint of criminal wrongdoing or something like that on the part of a warden we would send in an outside investigator, and we have a department procedure set up to identify who goes and looks at it. For instance, we recently terminated a Department employee that was charged with auto theft. We immediately sent in supervisors from outside regions to look at it, found out that the allegations were apparently true, and he was immediately terminated, so we do investigate our citizens' complaints. We look into it and we do have a system that's required by law.

CHAIRMAN CONDIT: Do you have a review board though?

MR. JOHNSTON: We don't generally have a review board, no. Those are set up by a citizens' board or something like that. Generally, it's looked at by the staff in Sacramento checks into allegations and after the investigating officer forwards a report.

CHAIRMAN CONDIT: Have you ever threatened that man to remove dog hunting?

MR. JOHNSTON: I don't recall the conversation that Mr. Hemman is talking about, perhaps he has me mistaken with somebody else. You're absolutely correct, it is his absolute right, and perhaps a little background..., Mr. Hemman wasn't the target of any probe, has never been the target of any probe. The undercover officer that Mr. Hemman worked with was sent into that area to investigate White Bass. Mr. Hemman happens to be very active, as he's indicated to you, and naturally became affiliated with this officer. It's just one of those things that happened. He was, the undercover officer was never given Mr. Hemman's name as a target. He was told to go down there and see if anybody's moving White Bass in this area, and the investigation resulted in 33 arrests for a variety of charges related to the illegal commercialization of wildlife. We've convicted over twenty of those people in a variety of jury trials and court trials and guilty pleas and those operations without losing a case.

MR. HEMMAN: Mr. Chairman, I'm not here to discuss any of those cases, but I will say this. If you'll read that report from the very beginning, the undercover officer, Eddie Watkins, states in there that the Central Valley Sportsmen's Club, which I belong to, is apparently not a threat to the White Bass but is a political threat to the Department of Fish and Game. That's in his report. He also stated in court the other day, I can get you the actual case, that the Central Valley Sportsmen is undermining the State of California. Now, this is ridiculous. Those are written documents that are in his report, it's in the transcripts of the courts, and I think it would do well to investigate this. I really do.

CHAIRMAN CONDIT: Okay. Thank you for your comments.
Mr. Palmer?

CHAIRMAN COSTA: Mr. Palmer has indicated, Mr. Chairman,
that he will wait until tomorrow. Is that correct, Mr. Palmer?

CHAIRMAN CONDIT: Okay. We want to thank the Department
and all the citizens and people who are representing
organizations for being here today. We appreciate it and we
appreciate your patience. We'll be back at it tomorrow at nine
o'clock. Thank you.

END OF FIRST DAY

JOINT HEARING OF
ASSEMBLY GOVERNMENTAL ORGANIZATION
AND
WATER, PARKS AND WILDLIFE COMMITTEES

October 28, 1987

CHAIRMEN, GARY CONDIT AND JIM COSTA

CHAIRMAN GARY CONDIT: We just want you to acknowledge that you were sworn in yesterday. Those of you who are new today will have to be sworn in, so when you come in that'll just take just a few moments.

If you have your agenda before you, we're going to start with the Private Lands Management, Item One on today's agenda, and we're going to start in reverse order that's listed on the agenda. We're going to start with Mr. Peters who's the Vice President of California Houndsmen. Is he in the audience?

All right, then, we're going to start with Mr. Baird. Harvey Baird. You want to come up, sir?

Were you here yesterday, sir? Okay, you want to be sworn in. Just come up and this gentleman will swear you in.

MR. MOGER: Are you Mr. Baird? Would you raise your right hand, please? Do you solemnly swear or affirm that the testimony you are about to give before this committee will be the truth, the whole truth, and nothing but the truth?

Into the microphone, sir. Would you please have a seat and state your full name for the record?

CHAIRMAN CONDIT: Mr. Baird, if you'll push that button, then the red light will come on and you'll know that it's on.

MR. HARVEY STILLMAN BAIRD: Harvey Baird, Harvey Stillman Baird, Fortuna, California.

MR. MOGER: Okay. Would you spell your last name for the record please?

MR. BAIRD: B-A-I-R-D.

MR. MOGER: Okay.

MR. BAIRD: I'm here to oppose this Ranch for Wildlife Program 580.

CHAIRMAN CONDIT: Okay. Just read your statement, or make your statement.

MR. BAIRD: I can read this, and that'll be...

CHAIRMAN CONDIT: Either way you want to do it is fine.

MR. BAIRD: I am here representing a lot of good hunting, good honest working people in opposition to the Ranch for Wildlife Program 580. We feel this is a bad program and will do nothing to help the deer herds, especially on public lands of the general hunting public. Some ranches on this program are on migration trails. We protest the selling of deer, something that belongs to the people, some prices as high as \$3,250. It's nothing more than a gun club for the rich. They are hunting just for the heads. There are abuses of this program, such as chumming deer out of the open baffles, taking deer for their heads and giving away spoiled meat, inflating deer counts, improper fencing. Improper fencing was told by a Department of Fish and Game warden -- I'm not sure of the pronunciation of his name, Brian Piccoli -- at a Humboldt Wildlife Advisory Board meeting which I attended. The other abuses were told by our

neighbor and (inaudible) of the Ranch for Wildlife. His phone number is (707) 839-3462. We mostly protest the participants of this program's right to setting their own dates for hunting, as they are doing during the rutting of the bucks, when they are vulnerable. If this program will work it will work during the seasons set by the Fish and Game Department.

The one rancher in my area in this program admitted to me the bottom line is money. I would like to know how the deer benefit from this program. We have no habitat problem in Northern California. Letting ranchers set their own dates for hunting is a poor incentive to participate. I'm afraid now that this program has been known and for what it is, you have opened a can of worms. You will make illegal hunters out of a lot of honest hunters. No one group should have special privileges when it come to deer. If this program is so good, why wasn't it being done on public land and why did it take so long to think of it? Please don't give us the lack of money for the public lands. Our hunting licenses and tags are forty dollars now, and is it all going for wages? If it is, we're not getting what we paid for. I'm afraid that deer hunting will go the way pheasant hunting went after it was turned over to the ranches. This program slipped by us before we ever heard of it. I went to a Humboldt Wildlife Advisory Board meeting to protest this program, and no one on the advisory board had even heard of this, including the president of the board, nor Assemblyman Dan Hauser. When he received my letter, he said he was not familiar with the program and would get back to me. They are the people who should know

this. Nobody that matters knew about this program until a few months ago, and I believe that is the way it was planned. Well, now we know.

I could go on and on with good reasons to stop this ridiculous program, but this will be a good start. Stopping this program will be the will of the majority of the people.

CHAIRMAN CONDIT: Thank you, Mr. Baird. You mentioned 580. You mean Assembly Bill 580. It's the Ranch for Wildlife Program.

MR. BAIRD: Okay. Yeah.

CHAIRMAN CONDIT: All right. Okay, thank you, sir.

If you'll stick around, as we get down the list we'll get to some Department response to some of your comments, okay?

MR. BAIRD: This is a petition that I have. I have around 2,000 signatures and about another thousand to pick up.

CHAIRMAN CONDIT: Okay. I think our office has copies of those, so if you would like we'll include that document in the record.

Thank you, Mr. Baird. Just give it to the Sergeant over there.

Is Mr. Parker from the State Sportsmen Coalition here? Would you come forward, sir?

Assemblyman Ross Johnson has just joined us. Thank you, Ross.

Mr. Parker, you were not here yesterday; you need to be sworn in. Would you stand right there, and this gentleman will swear you in.

MR. MOGER: Mr. Parker, would you raise your right hand, please? Do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. RONALD RAYMOND PARKER: I do.

MR. MOGER: Thank you, Mr. Parker. Would you please be seated and state your full name into the microphone for the record?

MR. PARKER: Ronald Raymond Parker.

CHAIRMAN CONDIT: Welcome, Mr. Parker. Do you want to read your statement or make your statement? Do you have something you want passed out there as well?

MR. PARKER: Yes, I've got copies...

CHAIRMAN CONDIT: Just leave it there and the sergeant will pass it out.

MR. PARKER: Thank you, sir.

The groups that I represent are opposed to the BLM program, the Ranch for Wildlife Program, for many reasons. We've had numerous members of the Department of Fish and Game representatives at various sportsmen's meetings the last two years throughout the north state, and they keep referring to Article Five, Section 304 of the Fish and Game Code that gives them authority to supersede various parts of the Fish and Game Code regulations. The attorneys which our sportsmen have consulted surmised that, unless that section specifies what code it is to supersede, which it does not, why it holds no validity regarding the codes within this testimony.

The antlerless deer hunts being conducted in the majority of the Ranch for Wildlife program, Section 458 of the State Fish and Game Code, dictates that the Department must notify by certified mail the county board of supervisors in which the hunt will take place no later than January fifteenth. The Siskiyou County Board of Supervisors, and other boards of supervisors throughout the north state that we have had an opportunity to consult with, have never been notified of such proposed hunts. Section 459 dictates the Department shall not authorize, and the Commission shall not recommend, any hunts in which a resolution has been passed opposing those hunts. The Siskiyou County Board of Supervisors defied these hunts through recommendations that the Sportsmen's Coalition submitted at the Fish and Game hearings this last spring. There is also..., a month ago they also wrote out another resolution supporting the Siskiyou County Fish and Game Commission defying antlerless hunts in their county.

The sportsmen in Siskiyou County contend that the (inaudible) ranches and the Prather ranches are also in violation of county codes. The ranchers are conducting a business of marketing wildlife zoned for agriculture or residential agriculture, and we also are under the assumption that they are in violation of 10-6.4903 of the Conditional Uses permits within the county. Attorneys have suggested that such a precedent has also been established as far as county codes violations in other counties under the PLM programs. We feel, also, that the programs are in violations of Sections 451 and 452 of the Deer

Management Programs, in that they allow the managing of a herd, or a small portion of the herd within the herd. The other factors relating to the programs are the fact that the programs have been permitted to go into operation with the selling of permits prior to the landholders' being able to prove his capability of holding the obligations in the legislative guidelines. Sportsmen in the north state have witnessed a vast decline of harvestable bucks over the years, and we feel that in order for these programs to continue the landholders should first prove that he is capable of producing a stable and healthy herd.

We also, like the gentleman that spoke before me, believe that the deer belong to the people of California, and that migratory herds should not be hunted for personal gains or monetary reasons for a few of the well to do in the State of California. Another major concern, as far as the sportsmen are concerned, is that there are no legislative restrictions on the amount of sections that any one landholder can place under the programs at a given time. We have large corporations in the north state that hold thousands upon thousands of acres which our sportsmen are used to hunting, and if these landholders were to enter the programs there's a good chance that a lot of our sportsmen would lose a lot of their popular hunting grounds.

We feel that the local economies may also be threatened if the programs eventually meet the Department's expectations. With the decline of timber resources throughout the north state our counties must relay on other sources of revenue. The sportsmen generate a portion of such revenues in our northern

counties during their hunting seasons through purchases of gas, hunting supplies, motel and hotel accommodations, etc. Sportsmen participating in the programs generally do not contribute to local businesses, mainly because they go directly to the ranch and that is where they reside until the end of the hunting season.

In summary, we believe, the majority of our sportsmen agree, that it is essential to establish programs involving enhancement of wildlife habitat and wintering ranges, however it's doubtful that our sportsmen will ever accept the Ranch for Wildlife programs due to conditions outlined in this testimony. We feel that there's been a complete lack of public concern by the Department and the Fish and Game Commission regarding the wishes of the people of our counties. And it's the general consensus of the majority of our state sportsmen that the program should be eliminated and efforts be taken by the Department, the state landholders, the state sportsmen, and the environmentalists and other concerned parties, or interested parties, to create programs which would be agreeable to all parties and be beneficial to the enhancement of the wildlife habitat and the welfare of our state's wildlife.

CHAIRMAN CONDIT: Thank you, Mr. Parker. We appreciate your testimony. Any questions from the members?

We have now Mr. Grisham, Mr. Hauser, Mr. Eaves, and Mr. Statham has joined us. We appreciate your being here this morning. Thank you, Mr. Parker.

Mr. Gonzales? George Gonzales, is he here? I know he's on his way over from the Bay Area. He may still be in traffic. We'll call on Mr. Riggs. You want to come forward? You were here yesterday. Mr. Riggs is not..., Mr. Bradley? Mr. Bradley is the Director of Organized Sportsmen of Lassen County. You didn't testify yesterday, although you were here. We'll have you sworn in, if you don't mind. Mr. Bradley?

MR. MOGER: Mr. Bradley, do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. WAYNE ROBERT BRADLEY: I do.

MR. MOGER: Thank you, Mr. Bradley. Would you please be seated and state your full name into the microphone for the record?

MR. BRADLEY: My name is Wayne Robert Bradley.

CHAIRMAN CONDIT: You've been here all day yesterday and this morning, so you know how this is done. So, proceed.

MR. BRADLEY: Thank you. I'd like to read a statement, Mr. Chairman, if I may, please.

CHAIRMAN CONDIT: You surely can. Go ahead.

MR. BRADLEY: My name is Wayne Bradley. I'm on the Board of Directors of the Organized Sportsmen of Lassen County. I own a small ranch in eastern Lassen County that lies in deer zone X5A and borders deer zone X5B. Ladies and gentleman, I come here today because I am deeply concerned about what has happened to the deer herd in Lassen County. In my mind there are some big problems with deer management and the private lands management

program. We, who live here, see what has already happened with respect to the private land owners' program: the cheating, the poaching, the unfair play and hunting are here, virtually impossible to ignore. These tragedies are a disaster to the sportsmen of our state, the small land owner, and the man with small resources. This program has caused many problems. Let me give you some background.

Before the Lands Management program, large parcels of land in our county were open to deer hunting, no locked gates, no signs stating "no hunting or trespassing." Now everywhere you go signs appear. Many gates get locked, denying access to the public land. This has upset the hunter, who, in turn has been made to feel cheated, and he's become rebellious. The hunters' attitude has changed. The private lands management program was clearly designed to benefit the rich hunter, who can spend from \$1000 to \$1000 per tag and the large landowner. This program is grossly unfair to the small landowner. Why should a large landowner be given the right to sell a public resource and a small landowner denied the right to use the same resource?

There are other problems with the private lands management program. A tag purchased through a landowner allows a hunter to start hunting before the regular season in that area and extends close to two weeks after the closing dates of the regular season which, again, is unfair to the regular sportsman who can't afford one of these tags, and even more important, it's unfair to the deer. It's common knowledge that, near the end of the regular deer season in X Zone 5A and 5B, the necks of the

bucks start to swell. This is an indication to every deer hunter that the deer breeding season is close; it's the rut. At this time, the bucks starts traveling with the doe, making it completely unaware of any danger. Their only concern is reproduction. If deer are allowed to be taken at this time it will destroy all of the buck deer and eventually cause a decrease in the deer herd population.

If this continues to happen there'll be no more hunting in Lassen County as we now know it, because there won't be any big bucks left.

We must, somehow, find a way for the Department of Fish and Game, and the hunters, to walk down this road together. In my view and that of the Organized Sportsmen of Lassen County, if this bill isn't changed it will be fatal to the deer herds in Lassen County.

CHAIRMAN CONDIT: When you say "this bill" you're talking about AB 580?

MR. BRADLEY: Yes, sir, I am.

CHAIRMAN CONDIT: Any questions for Mr. Bradley?

MR. BRADLEY: Yes, sir, I have a number of questions.

CHAIRMAN CONDIT: Well, we were going to ask you some, but go ahead. I'm not sure we can answer them for you, but I'll tell you what, we have the Department on alert and they're going to make notes of them and when their turn comes up here if we can't get a response they'll respond to them, sir.

MR. BRADLEY: Mr. Chairman, as one of the directors of the Lassen Organized Sportsmen Association, we feel that we have

some of the answers to some of the problems in Lassen County, but somehow we can't reach our local Fish and Game people, even to discuss these problems. We feel we have a way of increasing the hunters, increasing the deer, making it a trophy area, and increasing revenue to business people in the county. And we are told, time and time again, by our biologists and people of the Fish and Game Commission, that these things can't be done, but yet, they are done in other states. Oregon does it. New Mexico does it. And this is road closures. If we close many of the main arteries and make the hunters go foot or horseback and take the vehicles out of the hunting, it will leave much, much of the area for the big bucks to hide in and the buck kill in the areas will be approximately the same as they are now, with the increase of hunters. We just feel that we have some of the answers, and we'd like to know why we can't get to the people in the Department and talk to them about it.

CHAIRMAN CONDIT: We'll ask them that question today.

MR. BRADLEY: Another question is, Mr. Chairman, in the private lands management program, why so many of the ranchers in our area that have been fined, caught cheating, poaching, and yet tag increases year after year are increased to them. I say this, and this is not hearsay, this is on record, Five Dock Land and Cattle Company, and I'm not sure whether it was two years ago or three years ago, had four bucks killed the day before the season hanging there, was issued citations, and threatened a game warden while the officer was trying to make arrests. Another large ranch up there herded deer off a public ground with a helicopter

onto private ground to fill the tags that were issued. We'd like to have some of the answers to some of these things, if we could, Mr. Chairman.

CHAIRMAN CONDIT: Okay. We'll see if we can get them for you.

Does that conclude your remarks?

MR. BRADLEY: Yes, sir.

CHAIRMAN CONDIT: Okay. Do we have any questions for Mr. Bradley? Thank you, sir.

Supervisor Gaither from Lassen County. Supervisor Gaither was here yesterday to speak on X5B, and he was sworn in, so you want to grab one of those mikes?

SUPERVISOR JOHN GAITHER: Thank you, Mr. Chairman and members. Yesterday, I read a statement which I prefaced my other testimony with, stating that basically this is not three different problems that we're discussing, it's one major problem. I think, in listening to some of the testimony yesterday from the people that are involved in the fisheries, the problem apparently filters into the whole department, and it goes back to, I'm beginning to think, gross mismanagement, and I worked for the state for sixteen years in the Highway Patrol as a mechanic, kind of a lower-level guy, and I dealt as a rep for an association representing our people with many department, the Governor's Office on down, issues, and I can tell you I have never dealt with a department like the Department of Fish and Game.

There's a lot of bureaucratic happenings that a lot of us don't understand until we get involved in government, and

sometimes it makes sense, but it's a problem. The private lands management, it's a great concept, but I think many people agree that communism is a great concept, but it doesn't work, it hasn't worked. The private lands program..., landowners, if you're going to have a program, should never be allowed to sell animals. When they begin to sell that animal it becomes their product, and they want to protect that product, and in protecting that product they begin to do things which are not necessarily beneficial to the product, that is the deer.

If they're going to have a program, all the tags should be made available to all the hunters by public draw. Some of these landowners are using the tags for political favors. Susan Valley Ranch has been handing some of them out like candy. I know of people who have been offered tags to hunt on that land. A nice guy, you know? Well, our deer should not be used for somebody being a nice guy and for political favors. When the owner of that ranch flies the president of Bank of America up to Lassen County to hunt geese, and I know from experience that those geese were not brought in there by natural means, it concerns me, and I know they're going to do the same thing with our deer. If we're going to have a program, the land access fee should be set by the Department of Fish and Game. As was stated earlier, some of these people are in it for the money. That's the bottom line, it's bucks, and the more buck they get the happier they are. As a matter of fact, the Fish and Game Biologist stated that they were happy to see that these guys were getting \$2000 for a deer because it's going to make the program

work a lot better the more money they make. Even though the money that's being brought into the Department of Fish and Game is a set figure, I believe it's \$400 for a three-year application and \$20 a deer tag, so the Department of Fish and Game, on a ten-tag ranch, will come out with \$200 that they get from the issuance of the tag through that, plus \$400, so they come out with \$2400 and the landowner comes out with \$20,000. If we're going to have habitat work being done on private land ranches, it should be done by the Department of Fish and Game and financed that way through tags. If it's going to benefit all of the hunters then all of the hunters should pay through the fees.

Other states have programs, as was mentioned earlier. The programs vary, vary from an additional part of the tag which is given to the landowner who turns it in and is reimbursed by the Department of Fish and Game in that state for allowing hunting on his ranch, but nothing like this. I don't believe there's any state that I know of that has this kind of a program. It's a giveaway.

The current programs in Lassen County have just created havoc among local sportsmen. It was bad enough when we were denied the hunting rights through the strict quota system, but when they turn around and say, well, now we have enough animals that we can go this route and sell them, it's just unbelievable. As I pointed out yesterday, we can't even hunt on our own lands unless we own 640 acres. We have one ranch that has 1300 acres that's in the private land management that's given over 20 tags to sell, I believe it was 21 this year, and yet the next door neighbor, who has 300 acres, can't even hunt on his own ranch.

Public lands are being posted. That has been brought to my attention by some people that were out there this year, that some of these ranches that have grazing rights on BLM land, on Forest Service lands, have posted those lands as "No Trespassing." As a matter of fact, I myself went down a county-maintained dirt road which has gates on it to keep the cattle in, and there was a "No Trespassing" sign on a county-maintained road. Those of us that are familiar with the county knew it was a county-maintained road, but people who come who are tourists or hunters, they don't know that's a county road. They look on a map, they see a road, and when they see a sign on that gate that says no trespassing, most hunters, I believe, are going to respect that sign, and so these people are being turned away from one of our county-maintained roads because this ranch owner wants to protect that resource.

Private lands management ranches hunt after the regular season into the rut. On my packet, which some of your got yesterday, there was a brochure which was circulated around town, which comes from an outfit out of Chester, and this brochure talks about the trophy blacktail hunts, and I showed it to a few friends of mine and I don't see a blacktailed deer picture here. These are all, look like white-tail and mule deer, but they make a point that they say, "Our private ranches are qualified under the AB 580 program. These hunts are conducted on private lands after the general season when the deer are in the rut." There's not a sportsman that I know of, that's a true sportsman, that believes that shooting a deer in the rut is being sportsmanlike.

Believe it or not, you can walk out there when they're in the rut and those deer will charge you. As a matter of fact, I think, many of you people have read stories in the past of women being charged by a deer that's in the rut. They go crazy. And it doesn't make sense, from a biological standpoint. In Wyoming, a few years ago, they went with a "Let's kill the big bucks, they're over populated," and they took the genetics right out of the herd. The big bucks disappeared. The big horns disappeared. Those of us that are lucky enough to get a big buck, we enjoy it. These guys that come up from the Valley, if you will, come up from the Bay Area, the Los Angeles area, that have the money, they don't think anything of going out to five-dot land and cattle and shooting the buffalo in the field. These buffalo have been running around up there for years, and we're all awed at the fact that this guy paid \$3500 to come up and shoot a buffalo. It's like shooting a cow. You know, it's great, I guess, so that's not hunting.

The access to public lands is being closed off through these ranches. Keep in mind that, when this land was settled, our county was settled years ago, the roads went from ranch to ranch to ranch. They didn't do like they do now, they just build a straight line, but they..., so the roads go through private lands, so you have these landowners that are blocking access that's been open for a hundred years, and they're closing roads to public lands, and part of what we were told two years ago was that the private lands management was to open up access to public lands. They were going to require these ranchers to keep these

roads open. Now they're closing them, and this year they say, "Well, we're going to try to keep these roads open." Well, trying doesn't cut it, and poaching has increased dramatically, as I testified yesterday. The local people are just..., they see it. As I said, you know, you're out in the wild open spaces out there, but we know everybody that's there, and we see them coming and going.

The next thing would be the future of the private lands management in Lassen County. If it continues, we have sixteen ranches there, fifteen percent of Lassen County private lands is now into private land management. I showed you a map yesterday, I only had three or four of them, that gives our..., the public lands. If you'll look at those maps, the green area is national forest, the yellow areas are private lands management..., BLM lands, the white is mostly private land. There is some state land involved in that. But here you have a deerherd that summers in the green and winters in the yellow, and the landowner in the middle in the white gets to kill them when they cross his land and sell them. That doesn't cut it. There is some habitat involved in that, in these ranches. I've been on a lot of them. There are some local deer, but those big bucks, they don't live in the meadows until it's time for rut, when they come down, so we have a lot of public land. When the Fish and Game biologist made the statement, and he's since denied it, but I have witnesses two years ago, that within twenty years most of the deer in California will be killed in private lands management clubs, I said, "Now I know why we have a strict quota system."

Now I can see why some of these things that didn't make sense are beginning to make sense.

It's my belief, ladies and gentlemen, that the quota system was begun by Fish and Game because it was their answer to a declining deerherd, to a declining buck-doe ratio, and it didn't work, and u jumps private lands management, and they're going to do the same thing with deer that they did with pheasant: they're going to back out of it. Okay? And they're going to turn it over to private land people and let them manage it. Those of you, as was mentioned by an earlier person, who know anything about pheasant hunting, I was raised in Yuba City all my life, I hunted deer until I grew up and moved up into the mountains, and they destroyed our pheasant hunting, public pheasant hunting, and they're going to destroy our public deer hunting. Poaching will continue to increase, and believe me, it's not just the local people. We do have people that come up, that have hunted deer for years, that are increasing their poaching, that are not buying tags, and the private land management ranches will exploit the herds. We've got a rancher up there who was just indicted and sentenced for letting his cows starve. One of the ranchers that's involved in this situation has had cattle die in the past from starvation. They were eating sticks, and if you don't think that these same people aren't going to turn right around and do the same thing with the deer, I'll sell you some swamp land up there that we sold a few years ago to some people. It's a bad system.

If we're going to have a management system it must work.

Another thing I think that you need to look at is that Lassen County's got a lot of public land. A lot of counties don't have a lot of public lands. Maybe a system like they've got may work in some of these other counties, but as a businessperson, I can tell you, I want to maximize my profits, and those people are going to do it too.

The abuses that have already happened on these ranches are going to increase. On that same ranch that Mr. Bradley told you, they herded the deer on with a helicopter, that's not a good ranch for hunting. There's more deer on 80 acres up above where I live in X5 than there are out there on that ranch. Two years ago, before the present owner had it, an employee of that ranch told me that five of the six deer that they killed on that ranch were actually killed on public land. They actually had to go off off of the ranch to find deer.

So, it's going to happen. If we turn it over to these people, we're in trouble, and my suggestion is that if we need a program, let's abolish this one and let's come u with one that's workable. If we try to amend this program, we're going to leave a little bit of rotten in there, and I think a little bit of rotten spreads. And right now, the whole thing is rotten. Thank you.

CHAIRMAN CONDIT: Thank you, Supervisor Gaither. Any questions from the members?

Okay, Mr. Sayer, Doug Sayer? Not here?

Mr. Gaither, Mr. Johnson has a question for you, sir.

ASSEMBLYMAN ROSS JOHNSON: I realize that our rural counties are suffering from a great many financial problems, but I was struck by your testimony about signs on a gate on a county-maintained road, and I'd like to know, can't the county afford to put together a sign and put it on that same gate?

MR. GAITHER: Well, that's true, but you've got to keep in mind, Mr. Johnson, that this is a rural county. That road has seven gates on it, okay? The gates have been up there for years and years, and people have used them.

I think what's important here is that..., the sign's not there, I guarantee you. It was taken down. But what's happening is they're blocking roads. They're blocking roads that have been open for a hundred years, that were stagecoach routes...

ASSEMBLYMAN JOHNSON: I understand that, but I was particularly struck by your testimony regarding county-maintained roads, and I, subject to correction by staff, I'm quite confident that not only have you the legal power today to put up signs indicating..., that you also have the legal power to require the removal of that sign be punishable by...

MR. GAITHER: Oh, I'm not denying that. And like I say, that sign was removed, okay? The point I was making was that these private ranches are blocking access, and a lot of our roads are proscriptive right-of-ways. They've been open for a hundred years. A lot of them are four-wheel drive roads that have been open for years and years, and people use them, BLM people, Forest Service people, etc., and local ranchers, hunters, and in order for an individual to gain access once they're closed is they've

got to force that guy, have him arrested and take him to court, and go through a whole menagerie, and we don't need those kind of things. We don't need the kind of problems that these programs are bringing to our county. We've got enough.

CHAIRMAN CONDIT: Mr. Statham.

ASSEMBLYMAN STAN STATHAM: John, could you tell me..., I know it's a very controversial program up there, and it's a brand new program all over the state. How accessible and pliable have the Fish and Game Department representatives been? For instance, you and all of your people up there, I'm sure, want a lot of meetings and public hearings with Fish and Game. Have they been there to talk to you about this problem when you want to talk to them?

MR. GAITHER: I've probably been to more of the meetings than any other supervisor, and I think, as this board may be aware, you received a letter from my board, stating that the other four board members didn't support me on this issue, and they're going to have to deal with the people in their districts over that because they're madder than hornets about this, and the organized sportsmen are going to deal with that.

I have been to these meetings. It's very difficult to deal with somebody, or a department, that is less than truthful with you, and refuses to acknowledge you. I have gone to them, to the Fish and Game biologist, and said, "Hey, we've got a mountain lion over here that's killing animals." And they say, "We don't have a report of it." I say, "I'm giving you a report." "Oh, okay." And that's it. Nothing happens. The

response is bad. I'm not saying that the biologist is..., they don't listen. You can talk to them, but they don't listen. They're not hearing what you're saying. They're not hearing what the ranchers are saying. They're not hearing what the hunters are saying. The numbers in their counts, and we'll get into this in the next one, in their deerherd management plan, they're not listening to their own studies.

They've come up with a deerherd plan in 1976, and they're staying with it, no matter what the facts are. I have a problem, and I had decided that the only way that we're going to get any changes is not in Susanville. We've had Fish and Game people come up to Susanville and hold the meetings, and "Let's hear your bitches, and let's hear all the problems we've got," and then they go back to Redding, they go back to Sacramento, and they do the very same thing. We have a Fish and Game person here, in this room, that's probably going to testify today, I don't know if he's on the list, that came to Susanville at a public meeting over another issue that I don't want to get into, but that person made the statement that Fish and Game is not responsible for safety, because it was a safety issue. I said, "My God, I've been raised, all my life, hunter safety, and here's a Fish and Game person standing at a public meeting and saying, 'We're not responsible for safety.'" And I believe your letter to me, a couple of years ago on that issue, stated and it was in the 1977 law, that safety is an issue, but the kicker is that the Department of Fish and Game has to recognize it. That's what the law says. They have to recognize the safety problem.

So as long as they don't recognize it, there's no problem. So, my approach to this, and I certainly was not expecting these testimonies this year, this hearing. I assumed, in talking with the people that were putting this together, that it would take us two or three years to gather enough support with the different organizations, to force hearings so that we can tell you this. When I found out about Chairman Condit's investigations, I immediately called his office and began to pursue, through his staff and other people, other coalitions, we've got somebody listening and they're concerned. So here's what has to be done, Stan. Fish and Game's not going to do it by themselves. There's just no way in the world. I've got a lot of respect for some of the people in Fish and Game, and some of the others, if it were within my power I'd probably throw them all out and bring in some more, just simply because it's such a problem, in magnitude.

ASSEMBLYMAN STATHAM: It is. Thank you.

MR. GAITHER: I get wound up.

CHAIRMAN CONDIT: That's fine. We all do that.

Mr. Kearns? Steven Kearns? Mr. Kearns, you weren't here yesterday, and you weren't sworn in. This gentleman will swear you in.

MR. MOGER: Would you please raise your right hand, Mr. Kearns? Do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. STEVEN KEARNS: I do.

MR. MOGER: Thank you, Mr. Kearns. Would you please be seated, and state your full name into the microphone for the record, please?

MR. KEARNS: Yes, my name is Steven J. Kearns, and I'm with Wildland Resource Managers, and I'm here to speak in favor of the private lands management program. Our company has been involved with fifteen private lands management programs in the north state up to this time, twelve of which are currently active in the counties of Siskiyou, Lassen, Modoc and Tehama; and so, we've had considerable experience, and I'd like to address the reasons we became involved in the program, and possibly, if you'd like, address some of the concerns.

From a wildlife management perspective, and I'm am a wildlife biologist, the major concern within our state of sound resource management of wildlife is the loss of wildlife habitat. The PLM program addresses that very fact. It provides an incentive program for the private landholder to manage for wildlife, and we haven't had that incentive before, and it does this, of course, by providing opportunity to generate some capital. That capital is plowed, then, back into wildlife management habitat work as well as running the program. So the major factor is that the PLM program does provide an incentive for the private landholder to manage for wildlife, which he never had before.

In the private sector we have to manage for those resources that we can support ourselves with. If we don't have an incentive, we can't manage for the resource. We have to

manage, by necessity, for some other resource, and I think a case in point would be the pheasants north of here, up in Glen County, where they are not doing as well as they have in the past because of loss of habitat because ranchers and farmers are now managing for other resources, other than pheasants.

Secondly, I'd like to point out that the PLM program provides for habitat work to improve wildlife habitat through the monies that are generated in the program, and we've touched on some of that already, but this is done in a number of ways, all the way from reducing other resource conflicts like cattle or timber in favor of wildlife, building ponds, making waterfowl projects, a whole number of things that are done up there, in the north state, to improve wildlife habitat. Those programs would never have been initiated had it not been for the PLM program.

Thirdly, I'd like to point out that the PLM program does not allow the private sector to market wildlife. What it allows the private sector to do, it gives them a reason to market opportunity for people to harvest wildlife. And this has been done in our state for a number of years. We have pheasant clubs on private land. We have duck clubs and waterfowl clubs. We have quail clubs and game bird clubs, turkey clubs, things like this that have been going on for numerous years, so I want to emphasize again that we are not selling, under the PLM program, wildlife. We are marketing the opportunity to experience a hunt or to experience wildlife. We manage one ranch that has no hunting at all under the PLM program, but they believe in it so strongly that they are setting aside monies and participating in

the program, and supporting the program, without harvesting any wildlife; and they're the only program, I believe, in the state that's involved in a fisheries program under the PLM program as well.

CHAIRMAN CONDIT: You said "manage". Do you manage as a consultant, or what?

MR. KEARNS: Yes, that's correct.

CHAIRMAN CONDIT: To private...?

MR. KEARNS: Yes, we do consultant work as well as actual habitat work on the ground, as well as actually the marketing phase if the client wishes us to do that, so we provide a wide range....

CHAIRMAN CONDIT: You do that for the rancher directly? Do you also consult for the Department?

MR. KEARNS: No, not under the PLM program. I've done other work for the Department on other programs and studies, but I do not, under the PLM. I work strictly for the landowner. So I am a cost factor to him.

Thirdly, I'd like to stress that for the first time every ranch that I'm involved with in the north state is a privately owned ranch, and therefore it has not been open to public hunting in the past, and the point has been made that a bunch of land is being closed down to public hunting, and I'd like to raise the point that lands are actually being opened up to the public, for a fee, certainly, but nevertheless, they're being opened up to the public and in the past they've never been opened up before. And there's substantial acreages being involved.

I'd also like to say that, on the ranches we manage, it's not just large landowners that are involved. I have one property owner that's only fourteen hundred acres that's involved, and then it ranges from there all the way up to 80,000 acres, so there's a wide spectrum of opportunity going on for the private landowner.

The next point I'd like to make is that, I think, one of the real evidences that this is a positive program for our state is that a number of other states are looking at us currently and are either drafting, or have drafted, legislation to put similar programs into their states, because they recognize the need for the private sector to get involved in the management of the wildlife resource. Unfortunately, our California Department of fish and Game does not have a whole lot of land that they can actually work on and manage on. They have to work with the private sector and the public sector to manage wildlife in cooperation with them, and this is what they're attempting to do with the PLM program, is to work with the private sector to help us and show us ways that we can manage that wildlife resource for the benefit of the people of the state, but there has to be an incentive for private sector to do that, and that's what the program is designed to do, is to provide that incentive to get the private sector to be engaged in the industry of wildlife management.

So, in summary, then, I'd like to say that providing the incentive is the key element to success in the private sector managing for wildlife, and that it does provide increased hunting

opportunity and increased resource management opportunity throughout the state.

CHAIRMAN CONDIT: Any questions? Mr. Baker?

ASSEMBLYMAN WILLIAM BAKER: Just a brief question: how do you feel the herds, the deer, are this year? Is it a good year? Do they have diseases, or are they being over-hunted or under-hunted?

MR. KEARNS: Well, I think this year because of the weather factor, we're going to see a very low kill ratio in the north state. I can't speak to the rest of the state, but the herd numbers were up last year, and I think we'll see them up again because we're having so far a light winter, and they're going into the winter in good condition, so I would expect we're going to see an upward trend.

ASSEMBLYMAN BAKER: Okay. Do you think the permits that we're issuing are in balance with the herds? Are we trying to over-graze?

MR. KEARNS: The permits under the PLM system, you mean? I think we have a tighter handle under the PLM system than any other system we have in the state, because we have to justify through herd composition counts and spot kill records exactly what that herd is doing. If the herd numbers go up, based on the composition counts, then we can be issued additional permits, but if those herd numbers drop, then we are cut permits, right there, so the number of permits is directly proportional to how the herd is doing within that direct area that we manage, the properties that we manage.

ASSEMBLYMAN BAKER: Thanks.

CHAIRMAN CONDIT: Thank you, Mr. Kearns, we appreciate your being here today.

Mr. Wayne Long, you want to come forward? You weren't here yesterday, is that correct, Mr. Long? Okay. We're going to swear you in, if we may.

MR. MOGER: Do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. WAYNE LONG: Yes, I do.

MR. MOGER: Thank you, would you please be seated and state your full name for that record?

MR. LONG: Mr. Chairman and members of the committee, my name is Wayne Long. I am president of Multiple Use Managers, Inc., a wildlife and recreation consulting and management firm.

CHAIRMAN CONDIT: Just for my own clarification, do you do similar to what this gentleman, Mr. Kearns, does?

MR. LONG: Yes, I do, but..., I consult and do management work, however, I am not directly involved in any of the ranch for wildlife programs.

CHAIRMAN CONDIT: Do you consult for the department?

MR. LONG: No, I don't.

I'm a wildlife biologist and except for two years with the California Department of Fish and Game, my career has involved twenty-five years of managing wildlife resources and hunting clubs on private lands.

My first introduction to legislation concerning private lands wildlife management programs was in the early 1970's, when I was chairman of an ad hoc committee on wildlife and recreational use of agricultural lands, which was formed by the Assembly Committee on Agriculture.

CHAIRMAN CONDIT: You were appointed by whom, on that committee?

MR. LONG: I was appoint by then-Assemblyman Ketcham, William Ketcham.

Since I think the proposed legislation that came out of that program really showed a need for the private management work and spells it out so well that I have attached a copy for this presentation, for your review. I cannot say I'm surprised at some of the negative reactions of a few sportsmen, as that was something which, from the very first, was expected.

However, most of the negative reactions are really unfounded and are due to not understanding what the program really achieves for wildlife, positive for wildlife, positive land use management and the sportsman. A major misconception is that the program is closing out numerous private lands from public hunting. This is absolutely not true. It has been a number of years since any private landowner, except for a few of the larger timber companies, have allowed free hunting access to their lands. Fee hunting in California has been going on for decades.

What this program has changed, however, is that on the program lands instead of just harvesting game, the landowner must

now actively manage it. This is something that is generally not being done, even on a majority of our public lands today.

Also, the program is said to be for the elite hunters. If you were to compare the cost of hunting on clubs that are not in the program with clubs that are in it, I'm sure you will not find any measurable difference in prices received or charged.

Something else that needs to be brought up concerning fees. Today there are few poor hunters. When you consider the cost of guns, hunting vehicles, sometimes four by four's and recreational vehicles, food and travel costs, etc., a weekend in the woods is no longer cheap. Anyway you look at it, it is not a poor man's sport, and I resent hunters that complain about this program when many find the money to go out of state, and in many cases hire outfitters to take them hunting, money spent that, believe me, is not going into the lands to enhance wildlife populations like this ranch for wildlife program is doing.

Another important factor involved in private management programs and their fees which is overlooked is the high cost of liability insurance for the hunting programs. It's just gotten out of hand. As a matter of fact, the number of the landowners and their hunting programs over the last couple of years have actually had to stop hunting programs because of that high liability. On only three properties which I manage, and again I'm not in the 580 program, whatever, I had to pay over \$20,000 this last season just for liability insurance.

Historically, those individuals who are profiting from hunting activities have been those that profit from the sale of

firearms, ammunition, recreational vehicles, outdoor clothing and related businesses. In addition, hunting has been a major economic factor for some local communities due to hunters' spending money in their communities for lodging, food supplies, etc. It can be said that hunting and related activities is a major economic factor to numerous businesses and local communities. However, the individual that provides the most and is the most important ingredient to continued hunting, the landowner, receives virtually nothing. In fact, both the wildlife and the hunters constitute real problems for landowners by way of crop and landstock depredation, competition for grazing, and general trespass and nuisance problems.

The concern for wildlife managers and agencies is continued loss of wildlife habitat due to ever-increasing intensive farming practices and land use changes that eliminate wildlife altogether. We are alas at a period in agriculture where the landowner is forced into getting as much out of his land as possible. The simple fact is we need landowners to manage for wildlife as well as their other crops. However, for them to do that and to continue to do that over the long haul, they must see it as in their best interests. What is needed is a program like this that provides incentives, where the landowner can see that managing wildlife and wildlife habitat can be profitable. This new program has not only brought more landowners responsible for wildlife management that has been important, it has called attention to the significance of managing wildlife on private lands. While some landowners have

not signed up for the program, they have gotten more involved in managing their wildlife resources as economic resources. It has been good, not only for the landowner but for the wildlife and hunters as well.

Some criticism has been focused on landowners being able to harvest does on their land. In all cases, it has been justified as sound wildlife management and should be continued when needed.

Another criticism has involved extended seasons, which we heard about earlier. Possibly, in some instances, these seasons have been a little longer than necessary, however, you must remember that without extended seasons on some winter range lands, landowners would only be able to harvest a few, or no, deer yet provide from their lands months of winter food so desperately needed by the deer. Under these circumstances that deer are of no benefit to the landowner and truly a pest that competes with this other livestock.

The positive attributes of this program far outweigh any negative ones. I cannot imagine their not continuing.

A quick review of the good things that this program fosters include, one, makes landowners manage for wildlife, not just harvest it; two, the program has benefits for non-game wildlife and has landowners looking at all their wildlife resources. Three, it helps preserve open space and wildlife habitat from commercial development and intensive agricultural practices. Four, it has focused attention on wildlife management and good land use on more than just program lands in the state.

Five, it provides hunting opportunities on land that otherwise might be closed. Six, from a wildlife management standpoint, we have the opportunity to learn how to better manage some specific habitats under some very specific conditions. Wildlife management research opportunities are fantastic.

Thank you very much.

CHAIRMAN CONDIT: Thank you, Mr. Long. Can you tell us, you don't manage any properties in the 580?

MR. LONG: Presently, I don't.

CHAIRMAN CONDIT: What do you manage, what properties?

MR. LONG: I have some other hunting club properties. Right now, I lease the Die-Quick ranch up in Northern California. I have Santa Rosa Island. I have a hunting club, actually, on Simpson Timberlands on the North Coast and also, actually, into Oregon. We have two hunting programs.

CHAIRMAN CONDIT: Okay, thank you. Any questions for Mr. Long? Thank you, sir, and we appreciate your being here this morning.

Mr. Long, Mr. Peace has a question for you. Do you mind?

ASSEMBLYMAN STEVE PEACE: Just as a matter of my being new to this, it takes five or six years to figure it out, I have a document here that indicates that you were the chairman of a subcommittee that opposed the program of the Legislature concerning wildlife management of private land?

MR. LONG: Not proposed it, no. We are the ones that actually put together the initial program, way back in the seventies.

ASSEMBLYMAN PEACE: A 1973 document, right?

MR. LONG: Right.

ASSEMBLYMAN PEACE: Now, is this the same program that we're talking about?

MR. LONG: It's essentially, it was really the start of it, and there's a few changes, but it's essentially the same program.

ASSEMBLYMAN PEACE: And how did you come to be on that committee?

MR. LONG: I was appointed. I've been a member of some other committees, for the California Cattlemen's and so on, was active in that, and I ended up being appointed to that...

ASSEMBLYMAN PEACE: This was a Fish and Game?

MR. LONG: No, it was not a Fish and Game committee. It was an agriculture committee, chairman William Ketcham.

ASSEMBLYMAN PEACE: Okay. Thank you very much.

CHAIRMAN CONDIT: Thank you, Mr. Long. We're going to go to Mr. Harold Eade, from Laguna Ranch, and along with that, I guess, George Work and Jeff Scharff. Are they here? They'll all be testifying, I guess, together.

You gentlemen were not here yesterday, were not sworn in. Do you mind being sworn in? State your name for this gentleman.

MR. MOGER: You're Mr. Eade?

MR. JEFF SCHARFF: No, I'm Mr. Scharff, S-C-H-A-R-F-F.

MR. MOGER: Mr. Scharff, would you raise your right hand? Do you solemnly swear or affirm that the testimony you are

about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. SCHARFF: I do.

MR. MOGER: Thank you. Would you be seated and state your full name into the microphone for the record?

MR. SCHARFF: Jeffrey J. Scharff, California Wildlife Unlimited.

MR. MOGER: And the gentleman with you is...?

MR. SCHARFF: Mr. Harold Eade, president, California Wildlife Unlimited.

MR. MOGER: Mr. Eade, were you sworn yesterday?

MR. HAROLD EADE: No.

MR. MOGER: I didn't believe so. Would you raise your right hand, sir? Do you solemnly swear or affirm the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. EADE: I do.

MR. MOGER: Thank you. Would you also be seated and state your full name into the microphone for the record, please?

MR. EADE: Harold R. Eade.

CHAIRMAN CONDIT: Thank you, gentlemen, for being here. You want to proceed?

MR. SCHARFF: Thank you, Mr. Chairman and members, Jeff Scharff, California Wildlife Unlimited. California Wildlife Unlimited is a new association that was formed this year as a landowner's association to participate in the responsible and progressive management of wildlife resources within the state.

The Association has members that are both participating in the 580 program and others who are not, who are simply doing private hunts on their properties.

The Association supports the 580 program because it recognizes the need for private landowners to participate in habitat development to preserve California's wildlife populations. Along those lines, one of the benefits to the state that we see coming out of this program is an alternative use for landowners of their properties, rather than looking, simply, to development. Because of the pressures that occurring, particularly in the central and southern portions of the state, increasing populations are forcing landowners to look at the alternatives that they may have for their resources. Among those are the development of that property, and 580 allows them to realize an economic return that might now otherwise be possible.

Several points have been raised concerning the 5680 program, questions regarding, for example, verification by Fish and Game of the management work. Our members are required to work with Fish and Game personnel pursuant to statute and regulations and do, in fact, do so in the course of their habitat development, herd counts, and the ensuring reporting requirements.

One of the things that I have heard in talking with various Association members is that, in some instances, the reporting requirements are difficult, they're burdensome, there's a great deal of paperwork involved, which to some extent goes to a rebuttal of one of the allegations, that Fish and Game is not

on the job, is not actively pursuing the program, and is not in an active oversight capacity. Another questions that has been raised, and you've heard comments from two consultants regarding the quality of the management plan,s, many of the plans that have been developed through the use of private consultants, prior to entering the formal review process, if those plans have been properly thought out and properly prepared, it should assist in expediting down through the review process at both the regional and state level, and then, ultimately, by the Fish and Game Commission. Proper planning should, then, decrease the review time, and we believe that's occurring.

We've heard a great deal of discussion, I think, about the migratory deer herds in the northern part of the state. We feel that the central portion of the state, and Mr. Eade will be offering some comments on this, have non-migratory herds, have a different set of management practices that are involved, and have found the program to be especially beneficial.

In terms of impact on the wildlife populations, if for no other reasons, it is against the 580 participants' best interest to overharvest. Perhaps, in the short run, they realize a higher economic return, but in the long run they decrease the resource on their property that is proving to have some value, and in every instance, the Association strongly believes that any permits issued should be on the basis of sound biological data.

Another question that's come up concerns the public benefit to participation in the 580 program as opposed to the economic return to the individual landowners. It seems, here,

that we're talking about two things. We have the permit, the 580 permit, that authorizes the hunt. That price is the same for every participant. It's twenty dollars. The second half of it is called a lot of different things: trespass via land access fee, allegations that the landowner is now selling the product, that being the wildlife that's taken off of the property. In this instance, you have a variety of hunting opportunities being offered, everything from merely obtaining access to the land all the way to full hunts that are guided with lodging, food, horseback, the full range of amenities, and that's a value-added service. That's a part of the free enterprise system as we understand it, and the cost of the 580 permit itself is the same for all participants in the program.

We recognize that the State of California, through this legislative body and its administrative agencies, has an obligation to manage the wildlife resources for the best interests of all the citizens of the state. In addition, these resources should be protected for all generations and for future generations of Californians. California Wildlife Unlimited supports these goals and believes that the 580 program is an important tool in obtaining them. Mr. Eade, as president of California Wildlife Unlimited, is prepared to make some comments then answer any questions that you may have. Thank you.

CHAIRMAN CONDIT: Thank you, sir. Mr. Eade?

MR. EADE: Thank you. I want to begin by saying that I'm speaking on behalf of the 580 program. I want to give you some background of our operation. We are in the southern central

section of the state, we're in Zone A, on your deer-hunting map there. We have been on the same property for seventy-four years. thirty-four years of that we've had a hunting program, a program where we got paid by the hunting public to come there and hunt. We've built that up over the years. The last three years we entered into, this is our third year of, the 580 program. We are in relationship to the rest of this state in regards to the deerherd, we don't have the problems that the program appears to be having in the northern part of the state. Our deer are not migratory.

If you look at the records on the 580 there, our district region 3 and 4 represents about 70% of all the deer tags that are issued under this program, there, in the non-migratory area. These are resident deerherds. Very few of those deer get over a mile from where they were born. We have been working on game management for years. The last three years has been enlightening because this 580 program has given us the opportunity to use the Fish and Game expertise. They have come in and helped us with our program, and as a result of that we are on our way to a bigger and better deerherd. WE are aware of things like buck-doe ratios, of doe-fawn ratios, herd composition counts, and things that we weren't aware of prior to this, and I think that the hunting public is going to be benefitted from this in the long run. In the last twelve months, as an example, we have had approximately 525 of the hunting public on our property. Those people have come there. They have thoroughly enjoyed themselves. I was listening to some testimony here, earlier,

where there was some sportsmen that were unhappy and they had signed a petition. I can give you a list of several hundred people that are very happy with the program and would support it a hundred percent, and they are also the hunting public. There has been a few things said about people in this program that have abused it. I think that if somebody abuses the program they should be eliminated. I think that also these sportsmen's groups, and we have them in our area, I think if you look at some of their records, if you go through their membership, and maybe find somebody in the sportsmen's group that's abused some of the rules too, and maybe they ought to be thrown out. You can go on all day about abuses of different programs, but I don't think that a few bad apples in the barrel should result in throwing the whole barrel out.

This is a good program. The people are going to benefit from it in the long run. We've built our herds up on our particular property to near our maximum. We have some more work to do and we're going to continue doing it. WE spend money doing it. We receive money for doing it. Those 525 hunters that I mentioned earlier spent an average of \$315 a piece hunting on our property, and I figure that's probably 70% of the investment they had in hunting. If you consider the vehicles they arrived in, the rifles, the ammunition, the clothes, the binoculars and so and so forth, I don't even know if you spend that small a percentage on lift tickets when you go skiing. So, it's a small price to pay.

Yes, we do make a profit, but that's why we do it. It's not a big profit. Our insurance, which was mentioned earlier, runs right around \$30 per hunter. The property taxes we pay run about \$65 a hunter, so it's not all gravy but we do make a profit, but we do service a lot of the hunting public. The program has allowed us to become aware of game management, and we are going to be able to handle more of the hunting public in the future. I think it's an excellent program, and I want to speak... I've got a lot of high regard for the Department of Fish and Game. Those people have a tough job, but they are out there, they are working with the people in this program, and believe me, when it comes to keeping records they are very strict about it and we have a mountain of records that we keep, and they even fine you if you don't stay on top of it, so as far as the Department of fish and Game, I have nothing but good things to say about them. They are on top of this program. I am in full support of it, and I would really stress that we need to keep this program in effect. Thank you.

ASSEMBLYMAN PEACE: Mr. Eade, before you leave, I have a question. You indicated that it was your belief that if there were some bad apples in the barrel, they ought to be eliminated. Is it your opinion that there are bad apples in the barrel?

MR. EADE: I don't know all the details. From the testimony I hear here today, there's some hearsay, there's some people been caught doing this and people who've been caught doing that. I think it would be up to the Department of Fish and Game that if these abuses are continuous, that...

ASSEMBLYMAN PEACE: Let me rephrase the question, because we've heard the testimony that you've heard here. What I'm interested in, and the reason that people have been put under oath here, is to get some definitive first-hand non-hearsay to the effect of whether those problems exist or do they not exist? I'm asking you. Are you aware of the existence of any, what you've referred to as bad apples in the barrel, or people who have violated these laws?

MR. EADE: No, I'm referring to the bad apples in the barrel based on the testimony I heard here earlier, but I have not personally heard of anything direct of anybody in this program that's done anything that they weren't supposed to.

ASSEMBLYMAN PEACE: Okay. Thank you. Mr. Baker.

ASSEMBLYMAN BAKER: You've owned your land for seventy-four years. What, primarily, was the land used for?

MR. EADE: Running of livestock, cattle ranch, mainly stock for feeder operation, and...

ASSEMBLYMAN BAKER: And you still do that?

MR. EADE: We still do that.

ASSEMBLYMAN BAKER: So, in essence, you're expanding the use of your ranch to include the wildlife, as well as your normal business of cattle-raising.

MR. EADE: Yes, if it wasn't for this recreation, what we call recreation, we would have a tough go of it.

ASSEMBLYMAN BAKER: So when the cattle business is bad, you hope the deer are good, and when the deer are bad, you hope the cattle are good, huh?

MR. EADE: Yeah, the hunting under the management program, we have, as an example, hunting versus cattle. Our operation ran 1500 to 2000 stocker cattle has now been cut down to 750 head. That makes room for more game, which is telling you that if we take both programs, the hunting program is more lucrative than the cattle program.

ASSEMBLYMAN BAKER: Have you had to make any changes in your property, any improvements, in order to get this so-called new business, or...

MR. EADE: Yes, definitely. We've put up facilities for the hunters. We have a full service hunt...

ASSEMBLYMAN BAKER: You have to provide the cows with feed. Do you have to do the same with deer?

MR. EADE: Yeah, we have continued habitat programs. And that's part of our 580 permit.

ASSEMBLYMAN BAKER: Okay, what does that consist of?

MR. EADE: That consists of development of springs, it consists of brush-burning, brush control, different methods. We spray it, we burn it, it's rotation burning, and we have probably one of the more expensive items is we build a lot of dirt trails to get out into the country, and it also opens the country up for the wildlife. They travel on the trail. We're in real rough country, and they use the roads continually to travel on.

ASSEMBLYMAN BAKER: Do you have to provide any feed for them?

MR. EADE: No, we don't.

ASSEMBLYMAN BAKER: They forage, huh?

MR. EADE: They forage.

ASSEMBLYMAN BAKER: I wonder if you could quantify that investment, what kind of dollars have you put into your habitat program?

MR. EADE: Over a specific period of time, or...?

ASSEMBLYMAN BAKER: However you'd like to...

MR. EADE: Well, right now we're averaging about \$15,000 a year.

ASSEMBLYMAN BAKER: And what's the revenue?

MR. EADE: The revenue runs about, the gross revenue is running around \$150,000.

ASSEMBLYMAN BAKER: Okay, and you indicated that you had, how many hunters produce that \$150,000?

MR. EADE: Five hundred and twenty-five.

ASSEMBLYMAN BAKER: And you have about a hundred dollars per hunter costs just in taxes and insurance?

MR. EADE: Taxes and insurance alone are that, and then we have, it's about, our direct costs are running around 40%.

ASSEMBLYMAN BAKER: Okay, thank you.

ASSEMBLYMAN PEACE: Thank you.

MR. EADE: You have to remember that we were in this program for a long time, and we've probably been down the road as far as every kind of hunting situation you can imagine, and hunters, and we feel that we have a large list of repeat customers.

ASSEMBLYMAN PEACE: Thank you very well.

Walter Powell. Mr. Powell is the operator of Battle Creek Ranch. If you'll remain standing the counsel will swear you in.

MR. MOGER: Mr. Powell, would you raise your right hand, please. Do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth.

MR. WALTON POWELL: I do.

MR. MOGER: Would you please be seated and state your full name into the microphone for the record?

MR. POWELL: My name is Walton Powell, and I'm the operator of the Battle Creek Private Land Management area in Tehama County.

ASSEMBLYMAN PEACE: Welcome, Mr. Powell.

MR. POWELL: Thank you.

I think one of the first things..., I have some papers here, but one, after listening to everybody here this morning, one of the first comments that I would like to make is a general comment, and that is that the opposition to this program seems to forget, that they say that the deerherd belongs to the people, but they forget that the landowner controls absolutely the harvest of the deer, and he controls, also, what can or cannot be done as far as development habitat for the deer on his land.

Now, I don't know how familiar you are with the Tehama County or with the cattle people, the landowners in northern California. You can start with Tommy Bell, with Stevens, with Rohnes, with Charlie Stover, with Keeler, the Tuscan Butte Ranch

and the Panes Creek Ranch, they all were foreclosed this year, in the last year. They were cattle people. They weren't fly by night cattle people. Charlie Stover was one of the biggest in the business. He was in the cattle business all his life, and when he died he owed the bank \$650,000. As soon as he died they took his ranch. They have been taking, on the west side, they have taken the Vernon Reese Ranch, they've taken the Owens Ranch, and many other ranches there. The cattle people have not been making any money.

Now, to tell you my background, my great grandfather homesteaded Buck Flat in Tehama County. Buck Flat is located up on the rim, above, at 3,000 feet above South Antelope. We had a range of, we run cattle with Jack Davison and my father, between South Antelope and Mill Creek, we went all the way down to Charlie Stover's, down into the forks of Antelope, and we had a big section in there. Now, I killed my first buck in that country fifty-five years ago. I have hunted that country. I have lived with those deer. I have been with them all year. I have seen the herd when it was at its top. I've seen it at its lowest. Years ago, we could keep the habitat up. We kept fire after fire going. We kept the brush patches down. We had many more deer when I was young and before they put the Ponderosa Way in than we have today. At that time we still had forage enough and range enough that the deer stayed in that area for the wintering. We had enough feed for them and they could stay there.

Now, for since the seventeenth I have spent eight days up there, riding the range, going around the range, just to check out the forage. There, from the Ponderosa Way down, I have checked it all the way down below the forks of Antelope, all the way over to the Pelagrine country, Indian Ridge, all the way back over north to Battle Creek, to where our place is. The condition of the forage today is worse than I have ever seen it after a full winter's..., at the beginning of this winter there is less forage, there is poor food, now, than normally there is at the end of the winter. The deer cannot survive in a lot of that area this year. The blue brush or the wild lilac and the buck brush, which are their two main forage bushes, are simply have no forage on them. They have been over-grazed in the winter, over-grazed in the spring, and then we had this hot, dry summer, and if you went and looked at the buck brush and the thianosis, you would think that they were dead. There simply are going to be a big die-off this year. There has to be.

Now, I have lived through the die-off. I have seen many hundreds of deer die of starvation, after they got too many does, after they increased the Bl refuge where they set up a sort of non-migratory herd of deer. Right now there's no deer moving down. I went through, in places. By the fifteenth of October, our season used to go from the fifteenth of September to the fifteenth of October, there was never any year in the old days when there weren't lots of deer down in the low country, in the winter range, by the first of October, and by the fifteenth of October there were always deer there. I went out on the

seventeenth of October, the opening of this second season, and I hunted for two days in the main country, where I've always hunted, I saw two does and two fawns. I saw one or two hunters that said that they had seen a couple of does. There were no deer there. There is a very scattered acorn crop this year. Now, two years ago we had a tremendous acorn crop, last year absolutely no acorns. This year there are a few but they're scattered. They will not hold the deer.

Now, if we don't have a program, if we don't do something to rehabilitate this winter range, you're going to lose your deer herd. There's no question about it. There's no question in my mind because I have grown up with these deer and I have seen them for over fifty-five years, what they are doing and what they aren't doing, and this is the first, this program is the first, fundamentally sound program that has ever come before the people. For years I have been saying, "Give the landowner..., cooperate with the landowner, that's the key of the whole thing." Give the landowner an incentive to want to go out and increase his deerherd, and this program does give him that incentive.

Like I said, now, in my particular..., I have leased Rex Hampton's 1660 acres over on Battle Creek. All right. He was getting \$500 a year for that for many years from the Lee Brothers for hunting and fishing privileges. We went in, and with this program I've said, "All right, I will pay you \$2500 a year for your hunting, and if you'll put a road down into South Battle Creek so that we can utilize the fishing, I'll pay you \$5,000."

He said, "Well, okay, we'll do it." Then he came back and said he didn't know if he wanted to spend the money to put the road down, and I said, "Fine. We'll put the road down and you give us two years of rent, and then we'll pay you \$5,000 a year."

Now, he is getting ten times as much revenue off of that land as he ever got before. Now, we're under the program. Bud Ishora and Bud Walker came into our land. They went all over it, very carefully. We went over the whole thing. And we laid the program out. They said, "Okay, we want you to do this. We want you to knock this brush down and burn it so we can regenerate new forage. We are taking the cattle off of this." It's always had a lot of cattle on it, and he's always leased the cattle out, and he got two dollars an acre. "Okay," I said. "I will buy the cattle. I will pay you for the cattle, but we're going to take the cattle off." We want to bring the range back and make it a heaven for deer, for quail, and there's quite a lot of turkey there. We want to develop the fishing, so we went to the fish hatchery over in Blaze Valley, we bought 300 fish from one pound to seven pounds, and we put them in the creek so that we could have a decent place to fish. We are putting in a series of guzzlers to develop the quail. We're piling up brush to make a haven and a resting place, a cover for the quail. We are not selling, as some of the clubs are, we are not selling memberships to make money. I am basically doing this because I have five sons, or three sons and two daughters, they all hunt, and I have fifteen grandchildren and they all hunt, and I..., hunting is no longer free. Hunting is controlled by the landowner today. And if you don't have a place to hunt and fish...

Now, next door to us, there is the Meadow Valley Hunting Club. I don't know how many acres they have now, but they have 163 hunters. There are hunters in trees, on the ground, in blinds, and they're every place. I've belonged to that club for quite a while, and one of my sons still belongs to it. I never hunted deer on it. I used to go hunt quail on it.

All they do is take. They kill the deer, and they kill a lot of deer, and there's plenty of abuses. I can tell you abuses just last week. One of the members there killed a tremendous big four-point buck. I wasn't there but my partner was there and he told him about it. The next day he was out hunting again. (Inaudible) and he's out hunting again. There are members of that club that I know, because I've been there, that never run out of tags. Now, they never run out of tags. Now, you can't do that on our game management. We are issued 24 tags; twelve bucks and twelve does. When those tags are gone, or if we issue a tag to somebody, he has to sign it to hunt. If he doesn't kill a deer, that's too bad. We cannot reissue that tag. That tag is gone.

This program allows the Fish and Game to come in and manage, to tell you what you have to do if you're going to stay in the program, what you have to do to develop your habitat. And it also gives them complete control, again, of how you harvest this game. They tell you. They take a survey and they know. Now, I can tell you that, in the regular season, an ordinary season, if we didn't have this I could take my people out and set them out and we'd kill twenty-five bucks if we wanted them. We can

kill that many deer if we want them without your program and do nothing. I don't want that. We're not after quantity. We want quality. I want a place to hunt for my family and my children and my grandchildren where I'm not getting shot at and where we can develop, and this is the whole essence of this program: it gives the landowner a chance to make a dollar. Some of this ground, I could have saved Vernon Reese's ranch, which is 7,000 acres back of Olin if he would have gone into game management two years before the bank took his ranch away. The Fournoy's right below him, they lost their ranch. They weren't fly by night ranchers, they were good ranchers. They were four generations of ranchers; they lost it, but you can't raise sixty cent cattle and sell it for forty cents and stay in business.

So they have got to utilize every resource that they can possibly get, and a lot of the resources, the best and the highest use of a lot of this land is game management, and so this program should be..., what we should do is do everything..., first of all educate the general public. They're misinformed and they're uninformed. You have a lot of opposition. Most of the opposition that I've talked to and I hear, and I've gone to some of their meetings where they talk about all the abuses, they make very many general allegations, they make very many general accusation. I think this committee should nail them down and say, "Okay. Back it up. Name the people. Show the clubs, the areas that are not conforming and doing the things." I know that Dave Walker and Bud Prishora, you don't get away with any funny business with them. They lay you a program, and Bud told me, he

said, "Now, Walt, you know, when we come back...", and I said, "I want you to come back often and see our progress." They've slowed our progress down. They've said, "Hey, we don't want you to do it all in one year. We want you to checkerboard it around so you have some feed here, and some here, and cover here and here. Don't go do it all in one year. We want you to do it in three years." Well, we want them to come see our program because you will find that the game management people, the people in this program, are the people that care, then there are the people that want to make a buck out of their land. They've got to. And if this is their method of making a dollar, it is the best thing, the most fundamental thing that's every happened to the deer management program in that area, and I only know of the Tehama deerherd. I've lived with it and nobody knows it better than I do, and I've operated duck clubs. I had the first pheasant club in California. As a matter of fact, I wrote the pheasant bill. I had Bill Rich write it, and I introduced it, and I fought it through the Legislature, and we had to fight all the Associated Sportsmen and everything. If it weren't for the pheasant clubs today, with the poisoned things we have, we wouldn't have any pheasants there for them to see.

ASSEMBLYMAN BAKER: Sir, could I interrupt you for just a second.

MR. POWELL: Yes.

ASSEMBLYMAN BAKER: Where are you located? You mentioned Meadow Valley. There's a Meadow Valley everywhere, but...

MR. POWELL: Oh, that's up out of Payne's Creek, you know, twenty-two miles out of Red Bluff.

ASSEMBLYMAN BAKER: I appreciate your giving me that reference, but when you're born and raised in Oakland it doesn't help.

MR. POWELL: Well, you know where Red Bluff is?

ASSEMBLYMAN BAKER: Sure.

MR. POWELL: We're twenty-two miles to Payne's Creek and another six miles up...

ASSEMBLYMAN BAKER: Towards Placer County?

MR. POWELL: No, no, Tehama County, and off to the left of the highway 36. You go down to Battle Creek Canyon. We built the first roads into it this year, opened it up.

ASSEMBLYMAN BAKER: To those of us to whom a longtime resident of California is three years, in fact, when escrow closes that's when we join the no-growth clubs, but for somebody to have been here sixty years and seventy years, and you're probably not even the first generation, are you?

MR. POWELL: No, no. I'm the third generation. I've been here, I'm seventy-two.

ASSEMBLYMAN BAKER: Amazing. Well, my grandfather lived to ninety-four in Winters and we...

I want to speed you through here, because I think you're saying exactly what the committee needs to hear, that there's been allegations about this program, as far as you're concerned when one person wants to cooperate with the government the program works well. I want you to tell us now how we treat the

club that isn't working with the program. How can we increase the enforcement and the authority...?

MR. POWELL: I don't think you have a problem. I talked to Bud Pishora yesterday, or day before yesterday, and I said, "Bud, have you had any violations, that you know of, in this program?" He said, "About three years ago somebody had four untagged deer. We took care of that problem. Another problem we had, somebody had posted, hadn't got their boundaries right and had posted some land that shouldn't be posted. We took care of that problem." He said, "Other than that, no, we have had no other problems." I don't know of any problems..."

ASSEMBLYMAN BAKER: No, but you know a problem next door where ea guy is taking a buck and then he comes back the next day and wants to violate the law and take another buck because he's working out of a private...

MR. POWELL: No, sir, that was a private gun club.

ASSEMBLYMAN BAKER: How do we improve the enforcement of the state laws? I know that's not part of the private lands...

MR. POWELL: No, that's not part of the private lands, but it's almost a one-on-one man where they've got 165 people, and they've got some good pros in there that have been hunting for a long time, and believe me, they don't run out of tags. They're behind locked gates, and they're shooting the deer five or six miles off the highway...

ASSEMBLYMAN BAKER: I want to run you through the bottom line of your program...

CHAIRMAN CONDIT: You've said that a couple of times. Why don't they run out of tags, Mr. Powell? You seem to be a knowledgeable man.

MR. POWELL: Because they always have them. There's 163 people, there's about 70 in this one camp where he is. Somebody always tags their deer for them. They never use that tag.

CHAIRMAN CONDIT: Where do they get those tags?

MR. POWELL: The hunters who go with them. They'll have a legal tag.

CHAIRMAN CONDIT: They go back and forth?

MR. POWELL: In other words, John Jones will shoot a deer and he's a good hunter, but Katy Jones will tag it for him, so the next day John Jones has still got his tag.

CHAIRMAN CONDIT: Well, I think what Mr. Baker's getting at is you've got a list here. How do we deal with that? How do we police that? How do we correct it?

MR. POWELL: Well, I think that you don't have that many wardens. Like I said, it's almost a one man on man deal. You have to get back in there, and you would almost have to be with the guy when he kills the deer. It's a very difficult thing to police.

ASSEMBLYMAN BAKER: We don't want to be narrow in focus. There has been some criticism of this program, but we find in testimony throughout the day that criticism is also of other programs, but no one knows where the lines and that boundaries are drawn. They might be poaching on state land, they may be in private yacht clubs, or game clubs. How do we improve the general herd by helping Fish and Game?

MR. POWELL: How do we improve with our program?

ASSEMBLYMAN BAKER: No, with any program. Because obviously, the abuse that you're referring to is not in the private lands management program.

MR. POWELL: Well, again, like I say, when a man goes out, if you've got a cheat, he's going to cheat, and he's got five thousand acres or something, and he's four miles away from the highway, and he has a friend there and he has another tag in his pocket, and he puts the other tag on it, I don't know how you would police it. The only way I know to police it is get somebody that knows what he did and get a game warden to come over and say, "Hey, he killed a deer yesterday and he's hunting today, and that program..

ASSEMBLYMAN BAKER: That's okay. I appreciate your testimony. You have a world of history. Thank you.

CHAIRMAN CONDIT: Thank you, Mr. Powell. We appreciate your being here this morning very much. Mr. Kasoles, is it George Kasoles, are you here? Do you want to come forward and present your testimony? You weren't here yesterday. We need to hear you in.

MR. MOGER: Mr. Kasoles? Would you raise your right hand, please. Do you solemnly swear or affirm that the testimony you are about to give before this committee is that truth, the whole truth, and nothing but the truth?

MR. GEORGE KASOLES: Yes.

MR. MOGER: Thank you. Would you please be seated and state your full name into the microphone for the record?

MR. KASOLES: Yes. My name is George Kasoles.

CHAIRMAN CONDIT: Mr. Kasoles, we're happy to have you here this morning. We notice that you've given us several pages of written testimony. If you think it's necessary for you to read it, that'll be fine. If now, we'd like you to paraphrase it, and this will be entered into the record.

MR. KASOLES: Okay. First of all, I want to thank this body for allowing me to come forward here and pass my comments along.

I am an attorney. I'm also the owner of the ranch in Siskiyou County. I am concerned about the PLM program and its equity to me as a landowner. I'm also concerned about our wildlife resources, and the affect private lands management has upon these resources.

In early July of 1987, I became aware of...

ASSEMBLYMAN BAKER: Sir, are you going to read this?

MR. KASOLES: Yes, this short...

ASSEMBLYMAN BAKER: It's four pages. It isn't short. Would you just tell us what the problem is? We can read, and the staff will read this.

MR. KASOLES: Okay. I'm awfully sorry.

ASSEMBLYMAN BAKER: That's all right. You have to relate to us, and we have to hear the problem...

CHAIRMAN CONDIT: Just a moment, Mr. Baker, just a moment. We've allowed every witness, if they feel they want to read the document, we'll let them read it. It's four pages. He can probably get through it in five minutes.

We'd prefer that you tell us, just out of your heart and your mouth what it is that's the problem, if you can do that. We will put the written testimony in the record, and it'll be available for anyone who wants to read it to read it. But if you feel it necessary, to get it on record, to read that, that's fine. We've done that with everybody else here, Mr. Baker. I've been here for two days, and we're not going to change the rules now. If you want to do it, fine. We'd prefer that you not do that.

MR. KASOLES: That was my understanding of your instructions, Mr. Chairman, at the onset of this hearing here, and if Mr. Baker could bear with me I would prefer to read it into the record.

In early July of 1987, I became aware that the lessee of the neighboring ranch applied for private lands management licensing. I reviewed a copy of the application and spoke with many members of the Department of Fish and Game staff attempting to understand the application of their various policies relating to private lands management licenses. I made a presentation to the Fish and Game Commission on August 7, 1987, here in Sacramento. I am now here to request this body to reevaluate the private lands management program, also referred to as Ranch for Wildlife, and conclude that private lands management is not equitable to adjoining land owners, unattached hunters, and only benefits an affluent, elite few at the expense of the overwhelming majority within our state.

It is inequitable to the citizens of this state to have this elitist system for those with dough for doe and bucks for bucks, not to mention the fawns that PLM harvest tags are issued for or the proposed tags for the fat cats. It is unfortunate that a select few are able to hunt in the late season during the rut, when all of the animals are down from the high country, this contrasted to the 290,000 unattached hunters representing the general public who can only hunt during the general open season, which concludes much earlier.

The general public is relegated to a substantially less hunting success ration, ten percent kill ratio, versus up to the 100 percent guaranteed hunts. We, the general public, are not allowed to hunt after the herds migrate out of the high country and graze on the alfalfa fields. With private lands management there is no need to hike up the mountains in the hot dry weather. The game, hearing you break dry brush, now only climb aboard a tractor in the meadow.

Private lands management is inequitable to adjoining landowners. It allows licensees to harvest the migratory herds, which do not know where property lines end and begin. Animals know no boundaries and are expected to graze freely and be quick to jump over your fence or mine, so why is it that private lands management licensees can harvest these resources for whatever price the highest bidder will give, when the animals have grazed openly upon my lands, the lands of others, the public lands of this state, and those of our national forests. No special privilege or consideration is granted to us, the unattached landowners.

Private lands management does not require habitat improvement for the first year of licensing. All that is required is a proposal for the following year's habitat improvement. This can be as minimal as to burn less than one percent of the licensed area with future landowner's consent. The landowner does not have to join in the license nor is he bound by the license to start a cattle grazing rotation system on two percent of the subject area. In return, the licensee is entitled to kill no more than 110 percent of the total buck population, or no less than sixty percent of the total buck population. This equates to ninety bucks, forty fawns, and four bears. It is clear that habitat improvement is a requirement, it be undertaken prior to the issuance of a license. Where the licensee be a lessee or actual landowner, the landowner and the land should be bound to the terms of the license. Appropriate bond requirements, also be required to ensure that habitat improvements are, in fact, timely undertaken and completed.

It is interesting that habitat improvement must first be undertaken prior to private lands management licensing relating to antelope, as differentiated from bucks, does, fawns, bears, and mountain lions. Likewise, in either situation, if habitat improvement is not completed, there are no enforcement provisions other than possible loss of the license.

It is unfortunate that the Department of Fish and Game will recommend for Commission approval the issuance of a license to one who has suffered a revocation of a PLM license, stating that it was the violation of the landowner, and not the licensee.

It is clear that the program does not have the appropriate checks and balances.

Private land management lacks public accountability. Public input is discouraged. The chairman of the Fish and Game Commission on August 7, 1987, took exception that three private land management applications were removed from the commission's consent calendar and put on the agenda for public comment. It is hard to convince a decision maker with public testimony if they are predisposed to believe that it is unnecessary to listen.

If this program is to be credible, public input is a necessary ingredient. To start with, initial input should be from the local affected areas and the input taken in the local area at the very earliest stage. Seek the input from the local county Board of Supervisors, the local fish and game commission, the appropriate planning agency. A public notice should be inserted in the local newspaper, and adjoining landowners should be notified if they can provide input at the local level without having to come to Sacramento after all the recommendations have been completed.

This body has set forth certain legislation requiring environmental concerns be considered. Environmental impact reports should be required for all private lands management applications. The general hunting seasons are not exempt from California environmental quality control act requirements, but are found to comply with its requirements. The basis is that local boards of supervisors are notified, there is a notice in the press, and all legislatures are notified of the general

seasons, and well noticed public hearings are taken. In the case of private lands management, it appears no one is notified, and if one appears it will be questioned why the matter is on the agenda subject to public input.

Let me tell you more about my experience before the Commission. I found the Department personnel not to be the trustees of the public trust for wildlife resources, but actually advocates for applicants. Let me recite to you regarding the Mesner Ranch, which was on the agenda of August 7, immediately preceding the Moffat Creek Ranch. Speaking on behalf of the applicant was a biologist for the United States Department of Agriculture who had prepared the application at no charge to the applicant. The U.S. D.A. personnel do actively participate in private lands management by actively soliciting participants to engage in private lands management. They will prepare extensive biological reports at no charge, provide funds for habitat improvement under 1930 United States Department of Agriculture federal legislation.

Geographically, gentlemen, all you have to do is look at a map and I believe you can see the influence of the USDA. Where is the licensee's consideration for the special privilege granted? Does PLM encourage double-dipping, or is it triple-dipping. Most of the applications are in remote areas, and what is the affect of timber preserve zoning. Timber preserve zoning gives the landowner a favorable tax benefit at the expense of his neighbors. Hunting is an allowable use of TPZ with the consent of the local board of supervisors.

The Department of Fish and Game is not consistent in its licensing of private lands management. For example, take the Mesner Ranch application. The USDA biologist stated that DF&G policy dictated that only one-half of the harvestable deer for the subject area could be licensed for PLM kill. The balance to be left for the unattached hunter and the unattached land. Whereas, in my situation, the Moffat Creek application, the Department recommended, and the commission authorized, the licensing of the killing of between 60 and 110 percent of the total buck population, not just those available for harvest based upon sound biological study or herd management plan.

I was taken back that the Department staff, in response to an inquiry of the Commission on August 7, would provide statistics relating to deer kill in the area surrounding the Moffat Creek Ranch that was some twenty to thirty years old, not informing the commission of its age. I would like to call to your attention my objections, which I submitted to the Fish and Game Commission for its review on August 7, which you have a copy of.

In conclusion, I question whether or not the Department has the constitutional authority to barter our wildlife resources in return for proposed habitat improvement. It is clear to me that by having two seasons, one for the general public and a privileged one for those with the dough smacks of elitism. It is a private exploitation and commercialization of our wildlife resources. In essence, does it not bring disrespect and mistrust for the purpose of the general hunting season?

It has been stated that California suffers from a poaching problem. However, with this PLM program poaching is not a problem. If you have enough bucks, it's okay to buy your way out of the season. How do I teach a youngster to respect the general season and explain to them the necessary purpose that it serves in preserving the wildlife, not only for today, but for tomorrow and future generations, and ask that person to put his gun down at the end of the season as he's looking over the fence at the hunters on the tractor awaiting the herd to come to the meadow during rut and to fee after the high country enters the winter season?

Lastly, I do not believe that this program will save our wildlife resources from subdivision, for it is clear that the counties have zoned deer wintering areas in their local general plans. there is no plausible reason to believe that PLM will stop subdivision. Deer have coexisted with people and are found in all fifty states. I thank you.

CHAIRMAN CONDIT: Thank you very much. Any questions?

Thank you, sir. We have Mr. Neary. Mr. Neary, you weren't here yesterday, and we're going to ask this gentleman to swear you in. Just a moment.

MR. MOGER: Mr. Neary, would you raise your right hand? Do you solemnly swear that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. GEORGE NEARY: I do.

MR. MOGER: Thank you, Mr. Neary. Would you please state your full name into the microphone for the record?

CHAIRMAN CONDIT: Do you have a written statement, Mr. Neary.

MR. NEARY: I have it written. I'll try to paraphrase it.

CHAIRMAN CONDIT: If you can paraphrase it, we'd prefer you paraphrase it. Mr. Baker says that you can read it if you'd like.

ASSEMBLYMAN BAKER: I so enjoyed the last seven pages, I'd like to hear more.

MR. NEARY: Well, it's the footnotes, I think, and the attachments that will probably get to us.

CHAIRMAN CONDIT: Well, it's your call. We're making a joke of it, but if you want to read it, if you think there's a point you want to make by reading it, that's fine. We'd just prefer you tell us what you think from your heart.

ASSEMBLYMAN BAKER: Get it out and show us. I'm only kidding. I don't want to be here until ten tonight, but we want to hear what you have to say.

MR. NEARY: Thank you very much.

Well, basically, I've sat through just this morning part of the hearing. I have, I feel, heard an awful lot of sour grapes.

I would like to speak very much in favor of 580/601. It's a program, again, a new program. We've been in it two years. My son and I operate a 580 program that runs on the Mill

Creek watershed east and north of Los Molinos, which is in Tehama County, and on this property, historically, there has been commercial hunting clubs. It was being operated as a commercial hunting club when I took it over in 1976, and they were killing between a hundred and two hundred deer a year by the local Fish and Game warden's estimate.

I closed the commercial hunting operation down, even though it was a \$30,000 a year lease. I simply couldn't tolerate the pressure that was being exerted on these animals from all directions, since they have to spend five to six months of their life in these foothills at our private land. That's where the oaks are, where the acorns are, and the clovers and so on that they find necessary during their fawning period before they go back into the Ishi and into the Tehama Game Refuge and up in the Lassen watershed.

So, at any rate, we're stuck with this huge number of deer, and I think it's only appropriate that there be some type of a management program that makes the property owner a concessioner, which is a term that I'd like to use. We have a problem with liability; we have a problem with adverse trespass, the normal problems that occur with anybody that owns property in the State of California. This makes it a somewhat more management problem, in that we're up there a great deal of the time, administrating the hunting end of it, the habitat enhancement. We've cut back on the number of animals, the number of cattle that we run on the property. I was running between eight hundred and twelve hundred head of cattle on it, depending

from year to year as the grazing varied. That's been reduced by approximately fifty percent with a three year commitment on that, so I'm stuck into this program, and it's a fairly serious amount of investment. I think it's worth it. It's a worthy program.

Collaterally, the commercial hunting on both sides of our properties, as a matter of fact, on three sides of this 18,000 acres, the commercial hunting will benefit as a collateral placement, simply because we're taking so few animals, and so selectively, and enhancing this habitation program that they have to utilize for, again, five to six months a year. They will get a better and healthier number of animals because they are, as they say, migratory. They will be going laterally from our area across to the adjacent areas. So everybody in that circumstance is being helped out. Other places, other countries, have management programs way more severe than this, and as you go into the Eastern bloc countries it is only the favorite, politically elite that get to hunt at all, or very, very wealthy people. Hunting is a privilege. It automatically is a privilege. It's an expensive indulgence. It's a lot cheaper to go down to Safeway or Raley's and buy your meat than to go out there with a gun and beat your truck all to hell, and yourself, and to have bozo's peeking at you through their telescopes trying to see if you're worth a shot or not. All of that's got to be factored in.

At any rate, I'm very much in favor of the program. I think it should be expanded. I think there should be more participation by soil conservation, by water conservation. I understand there is, in fact, ASCS funds available that is always

a very good idea, and as far as the police problems, that's an entirely separate issue. You have plenty of capacity to cover these..., again, all these so-called police violations, or violation allegations, that's there. That machinery is already there. If it's not being policed, or it's difficult to police, that is not on the agenda today, I think. That's for another oversight..., and this is less likely to occur amongst our high dollar, out of state hunters who come in here, who spend a lot of money in these locally depressed areas. We have to buy food for them. We have to buy gas, we have to buy booze, we have to go through the whole nine yards, locally, and that's all imported money. We have hunters coming this year from Mexico City bringing a great deal of, again, outside funds into a fairly local, depressed, economy.

CHAIRMAN CONDIT: Mr. Neary, we appreciate your being here today. We have a couple of questions for you. First of all, do you participate in terms of..., it's been told to us that you start the hunt a week or so before and go into approximately a month afterwards, do you do that? And if so, if you had to conform with the hunting season, what would that mean to your operation?

MR. NEARY: Yes, we have the extended seasons. We had to make serious concessions to gain these relatively small advantage. One of the things is we don't want to have 150 or 200 people running around in this place, all banging away at everything that moves all the time, so we have very few hunters, a very limited number of hunters at any given time. Secondly,

the habitat beneficiation, which included about \$25,000 in cattle-lease revenue, is one of the considerations that we gave for this extended season. Also, in our area, the deer are, again, Mr. Powell's point was well taken, the deer are not yet in this area. We could have the season close, as it did last year, without a serious number of deer, then in December I can take you through that place and show you 500 to 800 deer on any given day, after the season is closed, and they'll still be there.

CHAIRMAN CONDIT: So, if you had to conform with the season, what would that do to you?

MR. NEARY: Well, we'd simply have to manage it in a different manner. Probably, we would certainly be taking more of your breeding bucks, the four and three points, than the older, trophy bucks who, according to the biologists and my experience for almost fifty-five years of hunting, do the least amount of the breeding. They contribute the least to the gene pool and the health of the herd.

CHAIRMAN CONDIT: Okay, Mr. Baker.

ASSEMBLYMAN BAKER: Let me ask a couple of questions. I think what you could have answered was that if they cut the season down you'd have more people hunting during a shorter period of time with more likelihood of injury.

MR. NEARY: Well, I think it would cut seriously into our economy on it, because we couldn't offer the idea of the rich trophy hunter coming up here and having the run of 18,000 acres pretty much to himself. We couldn't offer that. It would have to be compressed, because we don't have the deer in that area. See,

there's a little imbalance in the setting of the seasons. It helps the people up further on in Shasta and Mineral and so on. They get a good shot at them, but then they stop, in Ishi, they stop in the Tehama Game Refuge and they don't come down until the very last part of the season, even in a heavy winter year. we've been getting this series of dry years, late winters, and we just don't have the season at the right time anyway, no matter how you look at it.

ASSEMBLYMAN BAKER: Okay, a previous reader said that this program would not affect the habitat, but you testified that you've taken cattle out of your land and allowed that for game. Is that correct?

MR. NEARY: Yes, I have reseeded portions prior to going into this program. I reseeded a good deal of this property myself, with grasses, fescues, and clovers. About 28,000 dollars worth was aerially applied. We've put in water improvement.

ASSEMBLYMAN BAKER: And you did this for the wildlife, not for the cattle?

MR. NEARY: Well, I think it helped everything.

ASSEMBLYMAN BAKER: But you have less cattle?

MR. NEARY: I run fifty percent less cattle than I had been historically, yes.

ASSEMBLYMAN BAKER: Also, it is charged that this is an elitist program just for dollars. Is herd management the answer?

MR. NEARY: Well, it seems to be...

ASSEMBLYMAN BAKER: In other words, a previous witness testified that there was going to be starvation if we don't do something about our habitat.

MR. NEARY: That's true.

ASSEMBLYMAN BAKER: So, is herd management, regardless of this elitist charge, is herd management the answer to the herd problem or is it just allow nature to take its course?

MR. NEARY: Well, if nature takes its course we're going to see a major die-off, in all regards. We're also going to see..., a lot of people like myself who are going to say, "Well, to hell with the deer, and to hell with the public, we're going to cut those oak trees down and sell them as firewood. And it doesn't matter. Those deer have to survive on our private land. Our private land is all we've got to market. That's it. And that includes the timber and the wood, the firewood that's on it. For the game, is a layoff. We can see that, as concessioners, again, we have a vested interest in the health of those animals.

ASSEMBLYMAN BAKER: So despite the charge then that this would not forestay any redevelopment, or development, by the board of supervisors, if you couldn't go from a declining cattle market into wildlife management, you would liable, in order to pay the bills, including property taxes, you would liable to develop your property, is that correct?

MR. NEARY: Well, others have. I don't think that's a hypothetical situation. A lot of people have cut the wood down. A lot of people have been forced to abandon water development programs, change it in their nature, or put it in these commercial so-called public hunting clubs, which is shocking.

ASSEMBLYMAN BAKER: A previous witness said that if it hadn't been for this program, he'd be out of business because the cattle business was bad. I didn't ask him this question, which I should have, and that is what would he have done with the property. The answer should be fairly obvious.

MR. NEARY: Well, I can only testify to what I would do with it. I would start whacking down the wood and digging it up and selling riffraff rock, all of which is being done in my immediate area, and it's profitable.

ASSEMBLYMAN BAKER: But not for the deer.

MR. NEARY: No, no.

CHAIRMAN CONDIT: Okay. Any other questions from any other members?

Thank you, sir, we appreciate your being here. Mr. Mackey, Ed Mackey. Is Mr. Mackey here? Mr. Barnum? Mr. Barnum, you weren't here yesterday, we'll swear you in.

MR. MOGER: Mr. Barnum, do you solemnly sear or affirm the testimony you are about to give before this committee shall be the truth, the whole truth, and nothing but the truth?

MR. WILLIAM BARNUM: I do.

MR. MOGER: Thank you. Would you please be seated and state your full name into the record?

MR. BARNUM: My name is William Barnum, B-A-R-N-U-M. I have a abridged version of War and Peace that I'm submitting to you, and I promise I will not read it, but if you don't mind, I'll turn the pages and give myself some idea of what to talk about.

CHAIRMAN CONDIT: That's your call.

MR. BARNUM: My brother, Charles Barnum, and I are the operators of the Barnum Wildlife Management Company, which we formed two years ago, and we operate a 580 program on the Redwood Creek ranch which is, in turn, owned by my family's timber company, known as Barnum Timber Company, and we lease the hunting rights from Barnum Timber Company. The range that we hunt on is a 17,000 acre ranch that was founded in the 1850's and up to this time has had five owners. At one point, it was an important pack train stop on the way up to the Trinity mines. There's been a hotel on that site since the 1850's.

About 1910, the hotel burned down and the family then owning it built a new hotel. The reason I mention that is that it's really one of the major attractions that we market. It's a three-story 12-bedroom hotel. My family uses it as a summer home, and then during the deer season, for 20 days a year, we have guest buck hunters come out to the ranch.

There are two hundred pairs of cows and calves on this ranch of 17,000 acres on a cattle lease to the Russ family from Ferndale. Our ranch is a timber property, primarily, and about 83percent of the ranch is covered in brush or timber and the balance is grassland, so there is a great deal of escape cover on the property for the deer to hide in. What we have found over the years, and I'm probably much younger than some folks in this program. I've only been hunting up there for the last twenty-one years, but in that period of time we've noticed that the deer population has decreased because the timber on the ranch has been

maturing from the major logging that occurred in the 1950's throughout that Redwood Creek drainage. We're about thirty-five miles upstream from the national park. We have very few redwood trees at that location. It seems to be warmer and drier.

Since the logging occurred in the 1950's there was a population boom for deer on the ranch, and that is borne out by the fact, I'm told, that about seven years after logging the deer population in a clear cut area will plateau. And what happened is that in 1966, Humboldt County had its highest buck take even and that kind of follows that 1968=69 was the top of the big logging boom in that area. Lots of mills around, hundreds of mills all over the area.

Well, now all that timber is about thirty years old, and as a consequence it is choking off the brush underneath and the forage, and as it matures the deer populations are decreasing. Now, our family's been in the timber business for about sixty years, and we own this ranch and a few others in the area, and we are trying to implement a sustained yield on our ranch property over the years, and one of the things that we've notice this year is that the deer populations are slowly dropping. They might spike up in a good warm year, and then in a harsh winter they'll spike way down low., and what we want to do on this particular ranch is to work with the Department of Fish and Game to manage the deer population so those big spikes up will not result in the inevitable big spike down. The stockmarket is a pretty good example of the kind of crash..., you can also have it in the deer population. When there's overpopulation, the habitat can't'

support them, there can be overtaxing of water supplies, bluetongue problems, hoof rot, and the deer just become exposed to more problems, so what we want to do is as these forests mature, and before we can get in there and begin a series of block cutting, because we're not cutting very much in there on this ranch. The timber's immature, not ready, as we'll eventually get into that, we'll be developing all kinds of deer habitat, but that's maybe ten or fifteen years from now. In the meantime my brother Charles and I are working in this program to improve what habitat is there. We did some pond work. We're doing some experimental plantings of grasses and clovers, and we think that that's going to help kind of relieve the bottleneck on years like this. We had a very dry year this year, and the feed is overtaxed. The ranch is over-grazed. One of the other things that we're doing, that we're proposing for next year, is that all of the cows be removed from the south half of the ranch, about 8,000 acres, from the end of May through November, which is through our hunting time, and we intend to do that so that the cattle will not over-graze that half of the ranch. That's going to cost us over four thousand dollars in additional fees because the cattle rancher is not going to be paying those fees, and of course the revenue has to be there, so that's a major cost to us.

We joined the program two years ago, well, we're in our second year, and in doing so we established three goals, and if you don't mind I will kind of look at my notes here. The first goal we have is to manage the number of deer so that we can maintain the population at, or below, the caring capacity

established by the forever changing habitat on the ranch. Habitat on a timber property is not static, it's forever changing. We have to keep counting the deer and watching the sex ratios to make sure that it's not overtaxing the habitat.

Secondly, we want to reduce the impact of illegal poaching while in the meantime increasing the public's legal access to the ranch.

And third, we want to improve the habitat for deer, especially during the critical seasons, late summer and late winter.

I could go into a long story about how we got into the program, and I won't. It's in my summary. I will point out that our harvest levels, set in cooperation with the local biologist in Eureka, for 1986, was only seven percent of the estimated herd, not a hundred and ten percent: seven percent, and although we had the right to take twenty bucks and twenty-five does, we, in fact, did nineteen does but only eight bucks. We took four percent of what we estimate the population to be.

The only problem with those kinds of numbers is that the biologists then says that we're not having a significant impact, and we should be doing vastly more hunting. By the way, I guess I should confess, you've heard that there are some people in this state that are selling deer tags for \$3,250. Well, we don't sell our deer tags for that. We do sell our hunt, for \$3,250 for one person, one guide, five days, in the hotel. we have a chef who used to work in Palm Springs, and that is the kind of hunt we want to offer: a very high quality hunting experience, and what

we're offering is a service and not a buck tag. The buck tag is a twenty dollar item.

The two on one hunting, where you have two hunters and one guide, is \$2,900. The issue to us is not price, necessarily. The issue is who is going to pay? Are the people of the State of California going to pay for the kind of management that we are doing on our ranch? Are they going to pay with increased taxes? Is the Department of Fish and Game going to increase its staff? Are the hunters going to pay? If the hunters aren't going to pay, who pays? We decided on our ranch that all of the doe tags would be sold to the general public in Humboldt County for ten dollars, the price that we pay. In effect, thirty-five doe hunters this year on the ranch will be hunting on our ranch for free. We meet them. We exchange the tags. We guide them, and all of that service is rendered to them at no charge above the ten dollar doe tag price. We think that's a fair trade-off for the privilege and the opportunity to, then, manage the habitat on that ranch and charge the buck hunters the price and make them pay the freight, not taxpayers and not all hunters at three, four, five hundred dollars.

The people who have hunted the doe on the ranch, I think rather naturally, are ecstatic about that and what happens is they come on the ranch, and..., this one fellow, honest to God, what happened this year, we had one guy who was poaching, and Charles approached him and identified him and he says, "Yeah, I am poaching," and Charles said, "Well, you know there's about a thousand dollar fine down in Arcata Justice Court for this kind

of thing, but if you'll work with us maybe we'll do something different. He said, "Well, what can I do." Charles said, "Well, you come to the house and you exchange your tag for a doe tag for ten dollars, and then you go out and help us manage our herd. We did that, and that guy ended up hunting six days, not because he didn't get any does but because he was just having an awfully good time with his son hunting on our property.

So we were giving access to this gentleman and his son to our ranch at no charge above the doe tag. And he eventually filled that tag. So we have good management, we have public access, that would not have occurred otherwise.

I have a list of responses here that I won't read but I would like to briefly address, because they're the kind of angry and, I believe, misinformed hysteria that we've heard in response to this program. The first one is that our fees are too high. And the response to that is that it's true that our buck tag price is a high price. We don't deny it. We claim it as the purpose of what we're trying to achieve. We're trying to make the buck hunters pay the cost of all the work in the program. This year, our liability insurance cost us \$8,207. It was our highest single cost in the program. Bear in mind that all of the hunters, including the doe hunters on our ranch, are hunting with a \$1 million liability policy protecting them. When they hunt on the public lands they don't have that. So, we are funding for thirty five doe hunters a \$1 million liability policy in case we're negligent.

Another argument that we hear is that hunting in the rut is not sportsmanlike. Well, there are all different kinds of sportsmen, and there are people in California that believe that hunting in the rut is not sportsmanlike, but that does not recognize that ninety-three percent of all the buck deer taken in North America are taken during the rut. Last year, in Wisconsin, in a two week season, 180,000 deer were taken during the rut. In California, 29,000 deer were taken over seasons that went as long as five weeks, out of a population of over a million deer, so the public is not achieving any kind of management in California, and the private lands program is the only management that is occurring in California, and hunting in the rut is not unusual, it's not unsportsmanlike, it is, in 93 percent of the cases in North America, the way it's done. There's no biological reason not to take deer bucks in the rut. As a matter of fact, when we have a strict quota, as we do on our ranch, there's no room for abuse. The deer are not being abused because the quota is set with a biological basis, and then we go out and we try to fill that quota,. That way there's no abuse, there's no over-hunting, and yet the hunting experience is a high quality one. What we do is we encourage our buck hunters to pass up the forked horns and the three pointers so that they can grow up, and we leave those bucks for two or three more seasons, and low and behold, we've got more trophy bucks to hunt.

So, we have a continual supply. Sometimes it's hard to convince them to pass up a buck, but they do it, and usually on the fourth or fifth day, they've seen maybe thirty-five or forty

bucks, and they finally have an opportunity, and last year they had a wonderful time. We shot eight bucks in our first season, and by the way, all eight of those made the Safari Club International Record Book. So the bucks are out there. Now, I know, after hunting that ranch for twenty-one years that they aren't there in the early season. They are there in the late season, and in answer to your question, sir, if we don't have the late season hunting of the blacktailed deer on our ranch, we won't be a member of this program, because, A, there's no way to market it so that the buck hunters will pay the freight of the whole program, and two, there's no opportunity go out and get a big buck with any reliability. We have nine to ten percent success rate for buck hunting in California. Now, some people say, "I don't care if I get a buck. I just want to have a good hunting experience," and that's fine. That's good. But for the guy who does want to go out and fill a tag, in America, in the free enterprise system, if somebody can provide them with a private access hunt for that, put them up in a nice hotel with a warm fire and good meals, we ought to be able to do that, especially if their fees, in turn, provide the habitat improvements that benefit the deerherd in that area.

I think that answers the next objection, which is the late season hunt is for the privileged few. The public doesn't get to do it. In addition, I'd like to point out, and I haven't heard this mentioned yet and I'm surprised, the Commission does not approve any late season hunt in California in which there is not equal public opportunity in either that deer zone or an

adjacent zone. They call it "parity hunts," public parity hunts, and we support the concept. On our ranch we have, this year, twenty-five buck tags that we can hunt in the late season, but in Trinity County, I don't remember the number to be honest with you, but I think it would be a couple of hundred buck tags are available in late season. We applied for the late season hunt, and I appeared before the commission. Before we got permission to do it the commission insisted that there be proof that there was a late season hunt open to the public. So that objection, that only the privileged few get to do it, simply isn't true, and if the public really wants late season hunts, as they have in ninety-three percent of all the rest of North America, all they have to do is ask their local staff to implement the hunts. The commission has already directed local staff to implement late season hunts. The reason they don't is that they're too busy out trying to check tags and make sure that all the other things are being done, and they're understaffed.

Hunting in the rut makes it a slaughter of defenseless bucks: it's not true. The bucks are not defenseless. They don't run up with a target on their side and say, "Shoot me." You hunt them. You may see more of them in the late season, but if you're a patient hunter and you pass up the young guys and look for a better trophy, there is no biological reason for not taking them in the rut. They are not at all defenseless. In fact, this one guy that we call "Mr. Big" last year is still out there, so he was still pretty wary, even though he was in the rut.

Our deer, by the way, are not migratory deer. All the deer on our ranch are resident deer. As a matter of fact, we spotted a five-pointer before the season started last year and the first guy that came up, we said, "We'll go up and get you a five-pointer" and he joked and said, "Well, what? Do you have have him on a fence or on a tree or something?" We said, "No, we just know his habits, and we've been guiding enough that we know where this guy is." We took him up and three hours later he dropped a five by four, and he was ecstatic. A wonderful experience for him. That's because we know the habits of the deer and we know where they are on the ranch. That's what guiding is all about, I guess.

There's an argument that this program allows that killing of all the big trophy bucks in the county. Up in Humboldt County there's 2,300,000 acres. Our ranch is less than seven tenths of one percent of that, and with the twenty-five buck tag quota that we have this year, it's impossible for us to shoot all the big trophy bucks all over the county. As our (inaudible) we can vouch, I doubt that they're coming up from Boxburg over the Redwood Creek for us to shoot them. It just isn't the case.

That's an example of what I call hysteria in reaction to this program. I doesn't make any sense. As a matter of fact, when we improve the habitat on our ranch, the bucks that we raise on our ranch don't respect the property lines. They leave our ranch, maybe, by a half a mile or so. We're told that the deer range about a mile or so from their place of birth, and so the

people that are hunting on the BLM and the national forest near our property have the first shot at these bucks because they hunt the earlier season, so rather than taking bucks out of the marketplace, we're introducing them in. Some people have said that we have fencing that fences the biggest bucks in on the ranch, and it's an amazing complaint. All the fences on our ranch are built to exclude cattle competition from water or riparian plants, and all the fences are three feet high. We use electric fences and they zap the cattle in the nose and they walk away. The deer jump over them and eat the food and drink the water. We don't fence in big bucks. I don't know how you could do it on 17,000 acres.

We heard that the taking of does will wipe out the deerherd, and exactly the opposite is the case. As I explained at the outset, what we're trying to manage is to keep the deer from spiking way up in population. Most of the does at the age of two or older have twins, and so they can duplicate their population every season, so if you have 600 deer you can have 600 new deer the next year, and so what happens when you have too many does and they have twins when the habitat is good, the population goes way up. Then you get a tough winter or a hot, long summer, and the habitat is decreased, and you have a die-off, and then you drop way below the carrying capacity. And you have wild swings in the population. Then you superimpose those facts over the fact that since the 1950's the habitat has been decreasing, and so you have generally fewer deer with little spikes up and down. What we want to do is manage the does as well and reduce those spikes up and spikes down.

We heard that the habitat work is not really being done, and that's news to us and probably to the staff of the Department of Fish and Game. They come out and inspect the work to make sure that we're doing it. As a matter of fact, I believe that our approval this year for our program was delayed to the June session of the commission up in Lake Tahoe, even though we had applied much earlier, because the inspections weren't completed, so it's just exactly the opposite.

We've heard that the Department of Fish and Game does not watch the program operators closely enough, that somehow they allow the program and they say, "Well, they're set," then they walk away and manage everybody else. Well, that's precisely the opposite. The scrutiny is vastly increased when you're in the program. We give the staff carte blanche access to the ranch. They can come and see us anytime they want. We invite them to come up and see us. So, exactly the opposite of that is the case.

I can conclude by saying that in effect, what this program does is it allows the Department of Fish and Game to extend their influence at no cost to the taxpayers. They can make the hunters, the users, pay for the habitat improvements, and the consequence is that more deer are produced, higher quality deer are produced, at no cost to the public, and that seems to me to be a fair thing.

I'd be happy to answer any questions.

CHAIRMAN CONDIT: Any questions? Mr. Barnum, thank you very much. Mr. Hauser?

ASSEMBLYMAN DAN HAUSER: Since we're finally getting into some territory that I'm very familiar with, I just have a couple of questions. To put this in perspective, Mr. Barnum, prior to the enactment of this program, who was able to legally hunt on this very vast ranch in Redwood Creek?

MR. BARNUM: We had the ranch cut in half. The north half, about 8,000 acres, was hunted by a hunting club that paid about \$1600 a year for that privilege. They also had unlimited firewood rights, and so they were actually going in and removing the oaks which would give habitat for the deer. In the south half of the ranch my family and my friends hunted on the weekends. There was no public access. Now, in the program we have thirty-five doe hunters from Humboldt County and then the buck hunters come, literally, from all over America. We've had guests from Hawaii, Florida, Michigan; in fact, we had a guest this weekend who was a guest from Pakistan, who was a doe hunter and had not been..., actually he's originally from Pakistan. He's from Los Angeles now, but it sounds pretty nice that he's from Pakistan. But access to the ranch is way up under the program and will increase over the years.

ASSEMBLYMAN HAUSER: How big a problem was poaching, trespassing?

MR. BARNUM: I didn't talk about it. It's in my notes. As you might be aware, there's county road that runs right through the middle of the ranch, it's called Bear Ranch Road. It goes from the ranch up over to Hoopa. It's a county dirt road, and we estimate that over one hundred animals are poached and

spotlighted on that road every year, and we're working as hard as we can with the wardens to decrease that. But that road is wide open. We don't gate it. We don't block anybody's access. We just put signs up every few hundred feet so that we can arrest them if they do trespass and poach the deer.

ASSEMBLYMAN HAUSER: And lastly, absent the program with Fish and Game, what incentives existed for you, as ranch owners, to improve the habitat?

MR. BARNUM: Well, for deer, of course, there's a little bit of a conflict. I think you're probably right on to it. My father is not a hunter. He runs the timber company. In fact, he's never deer hunted in his life. He thinks that my brother and I are nuts. He say, "If you guys are willing to pay me fair market value for the hunting rights," and this year it'll be about \$7,000 in fees, he does well financially because he's got the income from it, but he doesn't understand us at all. He has agreed, though, to do some things against his desire. For instance, we leave a fifty foot strip of oaks around all the meadows, no matter what timber management he does. And we're also going to be, as I said, removing the cattle from half the ranch for half the year -- those kinds of things are to our benefit, not his.

ASSEMBLYMAN HAUSER: Thank you.

CHAIRMAN CONDIT: Thank you, Mr. Barnum. We appreciate it.

We've got about twenty-five minutes or so before we adjourn for lunch. I'm going to try to move through this section

if I can, so when you come up, if you could move a little faster, Mr. Baker says, "I'd appreciate that very much."

Mr. Precissi, Snowstorm Ranch, are you here, sir?

You weren't here yesterday, sir, we'll have to swear you in. It'll take a couple of seconds.

MR. MOGER: Mr. Precissi? Do you solemnly sear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. JOE PRECISSI: I do.

MR. MOGER: Thank you, Mr. Precissi. Would you please be seated and state your full name into the microphone for the record, sir?

MR. PRECISSI: I have these if you want them.

CHAIRMAN CONDIT: Just lay those down there, and we'll pick them up. Move that microphone up closer to yourself, and state your name, please, sir.

MR. PRECISSI: My name is Joe Precissi, and I'm the manager of the Snowstorm Ranch located in Lassen County, in District X5A, and we formed a PLM program in 1985, and we just completed our 1987.

Now, we've heard a lot of pros and cons, of negatives and so forth. I wish this committee to understand that we do not sell tags. This little ranch that we have is a family unit, and everything that we do there is for ourselves, our children, and our grandchildren, and we have hunted the mule deer herd going back into the thirties.

We settled on this Snowstorm Ranch in 1946 through the goodness of a very dear friend of ours from Lodi that owned the ranch at the time, and he started out by selling us eighty acres of land. We have accumulated a few more acres as we go along. We had one original dam which is registered with the Water Resource people, and we have since built two additional dams, because the Snowstorm Creek goes right through our ranch and eventually ends up into the Honey Valley. By increasing this water resource, all the game benefits, the antelope, the sage hen, and not to mention all the deer and so forth.

We have introduced the chucker. In the sixties, we planted over two hundred chuckers and we're happy to report that they've done so well. I have never shot one of the chuckers since we planted them. The quail, the dove, when we plant, when the weather allows it, we plant maybe a couple of acres a week for the doves. Our program for 1988 is to plant alfalfa for the deer, the rye grass for the quail, and the wheat for the doves. And, of course, all of this has to be fenced because the cattle are such competitors against trying to get this feed.

As I said, this is a family unit. Now, since the advent of the restrictions on the availability of tags, since that time I have never drawn a tag to hunt on my own property, which I go along with. There's 250 permits, and some win, some don't; well, I don't win. So, anyway, we heard about forming this PLM program, and we immediately contacted, he was recommended to us, Steve Kearns, who's a biologist, and he came forth with a program in conjunction with the recommendations that we had to meet with

the Fish and Game, and we entered into the wildlife program in 1985, and this is our third year. We hope that we can continue to see this program go forth.

Now, I realize there's been a lot of talk, and there's always the talk about the unattached hunters. Well, I feel for them because I've hunted ducks all my life, and I can't kill a duck anymore, so I'm one of those losers, but that's the way it is, but I want it fully understood that we do not sell these tags. They're for our families. We are allowed eight tags with the understanding that we can only harvest six deer.

Now, they talk of the rut season. It's not mandatory that we go out during the rut season. If you want to hunt the rut season it's up to you, so I don't see where there's a valid argument there. Our season starts on the normal season, which is October third this year, and it goes to the fifteenth of November. Once we have harvested our six deer, if we're successful, we're all through.

I'd like to add, also, that the posting of the properties that was discussed..., hunting clubs are nothing new. They've been under the auspices of the PLM or the Fish and Game. There have been hunting clubs from years back, even in our deer hunting country up there. Now, we're in the mule deer migratory area, and I've hunted between Modoc and Lassen Counties, since I was seventeen years old, which is almost fifty some odd years, and I've seen the decline of the deerherd, mainly because of the pressure of the hunters. It's a very popular area, and I was very happy to hear, when we were going to be restricted to take

some of the hunters out of the fields, and like I say, we have to take our chances. So, I want to be very brief. I want to thank this committee for allowing me to be heard, and if there's any questions I'll try to answer them.

CHAIRMAN CONDIT: I think you've covered everything for us. We appreciate your being here today, sir.

MR. PRECISSI: Thank you.

CHAIRMAN CONDIT: Mr. Gardner? Mr. Gardner's not here? Are you here, sir. Mr. Gardner, we'll get it right when you get up here, I'm sure, sir.

You weren't here yesterday, were you, sir? We'll swear you in. It'll take just a few minutes.

MR. MOGER: Mr. Gardner, do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. GENE GARDNER: I do.

MR. MOGER: Thank you, Mr. Gardner, would you please be seated and state your full name into the microphone for the record?

MR. PRECISSI: My name is Gene Gardner. I'm president of the Clover Creek Hunting Club, which also has the Moffat Creek Hunting Club in Siskiyou County.

I'm for this game management plan for a lot of reasons that you have already heard today, and a few more that you haven't heard.

CHAIRMAN CONDIT: Why don't you give us the few we haven't heard, and we'll focus on that?

MR. PRECISSI: Okay. Some is, on the posting of the land, is talking about these county roads going through these ranches and for instance, we have 27,000 acres up there and now, then, we are required to post the parameters of this land, and on these county roads, I don't know of any county roads that have gates on them to my knowledge, but where the road is open we do have to post that roadside every five hundred feet to keep the people from trespassing. Not only that, with the PLM tags, if any of the members of the club or people hunting on that particular property gets on somebody else's land, they are liable for a ticket, the same as not having a tag, improper tags for that area. The same thing holds true with the public coming onto private lands. If you don't have the private, you would be also trespassing, along with improper tags.

My club is an NRA-affiliated club. We sell memberships to this club. The club furnishes these tags and late season hunts for its members. We do not sell individual hunts. I have given individual hunts to my neighbors to my neighbors, and extension of ten PLM tags were given to the neighbors to hunt on that place, which they have been hunting for fifteen years or so.

CHAIRMAN CONDIT: You actually give them the tags. You don't sell the tags?

MR. PRECISSI: They replace my cost. The PLM tag costs me twenty dollars for a buck, ten dollars for a doe.

CHAIRMAN CONDIT: I see.

MR. PRECISSI: And I have reserved ten of those tags and have issued ten of those tags to the neighbors where they could

continue hunting on that, and they reimburse me for my cost of the tag only.

Now, along with all of this, Siskiyou County Planning Commission got a hold of me. They say I have to have a business license. Well, why do I have to have one? "Well, you're selling hunts." Well, who would you hear that from. Well, they couldn't tell me. I am not selling hunts, I am selling individual memberships to the NRA club. So, therefore, I do not need a Siskiyou County business license. "Well, how about the RV's that these people are bringing out and putting on the places?" Well, as long as they're self-contained and it's not on the property for any more than thirty days for any given time, there is no permit needed for those, so in checking with the planning commission of Siskiyou County, as far as I'm concerned, I'm clear with them unless they come up with something that I don't know about.

CHAIRMAN CONDIT: They might.

MR. PRECISSI: They could very well do it. And we've had quite a bit of response, people calling in and saying that we've been shooting up the place, and everything like that, but to this date, as I'm sitting here in this room, there has been twenty-one tags issued to hunt on the ranch. And out of that, I know that eleven of those tag holders have not even been to the ranch yet. I still haven't found out who's making all these accusations on us. But the plan is good. I have currently over \$44,4000 invested in land leases, not to speak of how much is going to go into the management program of building the habitat.

We're set to burn at least a thousand acres this year, or set it up to be burned in the early fall, excuse me. That has already been under way with CDL. We have 500 acres of bottom land up there that has been in alfalfa fields. Some of it is still in alfalfa and has been currently grazed by cattlemen. He has cut some of the cattle off of it, and by my request, and currently, the first of the year, his lease will terminate. There will be no more cattle grazing except for range cattle that could come in on the property from over on the other side of the mountain.

All of this land is going to be used strictly for the wildlife. Some of these old fields that have not been planted, they will be put back into cultivation and left for the wildlife. We're limited to the harvest that we can take as far as the animals are concerned. We have a quota. If we kill that quota the first day of the season, our season's over. If we wait until the end of the season to take them, that's our prerogative. If it weren't for this quota, I could have every one that came to the ranch and wanted to hunt with a D1 tag come in there and they could take as many deer out of there. What would I care? I've paid for it. But I don't. I limit this strictly to the membership, and if a member has a minor child that they want to hunt with them, we issue that child a tag, so I think that's about all that I have to say about the plan.

I think it's something very good. I've got a lot invested in it, along with a lot of other ranchers that are doing the same thing, and what little we get out of it, I think it's well due to us.

CHAIRMAN CONDIT: Thank you, sir, we appreciate your being here.

MR. PRECISSI: Thank you.

CHAIRMAN CONDIT: Mr. Dawley? President of Resource Conservation District, Tehama County.

This gentleman needs to be sworn in.

MR. MOGER: Mr. Dawley, would you raise your right hand? Do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth.

MR. FRANK DAWLEY: I do.

CHAIRMAN CONDIT: You understand we would like to adjourn fairly soon, so if you can be concise, we'd appreciate it.

MR. DAWLEY: My name is Frank Dawley. I can do this in seven minutes, or do you want me to ...?

CHAIRMAN CONDIT: You do it..., if you need more than that time..., we'd appreciate seven minutes.

MR. DAWLEY: Okay. My wife and I manage our family's ranch in the foothills west of Red Bluff, it's a medium sized ranch, too big for us to work properly, too small to support a hired hand.

We've have a (inaudible) program for three years, the last two in the private land program. I'm also the president of Tehama County Resource Conservation District, which is five volunteer directors who strive to preserve the natural resources of the county.

With our modest budget, our efforts are limited to encouraging cooperation between various resource agencies and private land owners, and facilitating resource educations to schools and the general public.

I'd like to express why I came down here today. A wildlife biologist I encountered said in his experiences in Africa and in the biblical lands, the decline of those civilizations there was first presaged by the increasing scarcity of wildlife. Then, how the grazers and the farmers had trouble surviving on the land, next the small towns began to decline, and finally, the cities and the civilizations vanished, and I'd like to ask this committee where California fits in that profile.

I think I'll skip some of this blood I put on paper here concerning my ranch's private land program. It's been covered very well and thoroughly by other ranchers. One thing I think I could reaffirm is that we are selling the concept of a quality outdoor experience, which encompasses much more than just shooting a deer. The appearance of the landscape, the number and variety of species, the weather, and other unforeseen occurrences all contribute to this out of the ordinary experience. Also, I am not a hunter, but I've found that this wildlife management is very interesting and it has..., the biggest change has come in our realization that in wildlife management there's little resemblance to cattle or farm management. With wildlife, you can't brand, vaccinate, fertilize, or even county your crop. It took a while for us to realize that wildlife has had eons of self-management and our contribution to these select management

practices which complement of enhance the ecologic base. The development of our private lands proposal, we choose wildlife practices which coordinate with other ranch programs, one point of which is we have radically changed our grazing management. In a holistic resource management we are using cattle to enhance our resource base.

Briefly the cattle graze a portion of the range for a short period. That area is then rested for a long period while the nature recovers from the grazing and incorporates the cattle's biologic contributions, and the response has been extremely exciting.

The point that I really came down to speak to this committee, and representing the Tehama County resource conservation district is that we do strongly support the private lands wildlife management program. Since 1985 we initiated three programs directly concerned with the private lands program. They totalled more than three days and had over 100 attendees. The RCD sees the landowners and managers of the county as our target audience. They're responsible for the condition of most of the land in he county. They are the stewards of the watershed. This committee of the Legislature is concerned with two products of that catchment, water and wildlife.

Our water resource, its quality, abundance, and flow rates, is an indicator of the quality of the natural resource in the watershed. Wildlife is part of that resource, and game is the manifestation of the quality of the natural resource. I'd like to reaffirm that: it's just the indicator of what's going

on. Tehama County RCD feels that through the private lands program, landowners and managers will become involved with the entire natural resource, rather than making decisions solely with regards to cattle or hardwood harvest, they'll learn to consider and balance the need of cattle and game and non-game species and quality of this outdoor resource.

To conclude, the private lands program is a remarkably positive piece of legislation, remarkably. It is a cooperative agreement, freely entered into by the state and the rancher. The Department of Fish and Game considers the proposals biologic soundness, it adheres to departmental and legislative guidelines, and annually monitors compliance. The rancher examines the agreement in terms of practicality, financial responsibility, and the suitability to his operation. The result is beneficial to the rancher, California's wildlife, and our common wealth: the natural resource.

ASSEMBLYMAN BAKER: Thank you, sir. One quick question. Because I scared you out of reading your report, you missed three things that are in there. Number one, you're not a hunter.

MR. DAWLEY: No, that's right.

ASSEMBLYMAN BAKER: Two, you state in your message that the herd has taken on a marked improvement in the last few years, since you've got in this program. Could you give us one line on that, why that occurred?

MR. DAWLEY: As I wrote in here, we didn't hunt, the ranch was not hunted, so it was stable. The animals that were there were there. Now that we're starting a hunting program and

habitat manipulation, we're filling the pipeline from the bottom, I guess you could explain it as. We're taking the animals off the top and making room, so it's a more dynamic situation.

ASSEMBLYMAN BAKER: Okay, and thirdly, you've improved the habitat. You've spent some money doing brush control where you weren't doing it before?

MR. DAWLEY: Yes, but more than just change -- we're changing our approach. Rather than wholesale burning we're burning small spots and in an annual program we're managing our cattle much differently and storing a lot more energy for the ecologic base, and other things like that, yes.

ASSEMBLYMAN BAKER: Thank you for your experience.

MR. DAWLEY: Thank you.

CHAIRMAN CONDIT: Thank you very much. All your testimony will be in the record, your written testimony. Mr. Tooker, do you want to come forward?

Here's the program. Mr. Tooker is going, and we have two..., these people are going to testify. They understand that we'd like not to duplicate, but we'd like to hear everything that they think's necessary, and then we have one..., Mr. Hemman, who is filling in for somebody else, and we're going to adjourn and hear the Department after lunch for a thirty minute response to this testimony, and then we'll move to the next section.

MR. JOHN TOOKER: Do you want to swear us in?

CHAIRMAN CONDIT: Please.

MR. TOOKER: Individually, or all together, or how do you want to do it?

MR. MOGER: Well, let's see. I have three names that are on our agenda: Mr. Tooker, Ms. Estill, and Ms. Massey?

MR. TOOKER: Right.

MR. MOGER: I think we could probably take your sworn testimony together. Would you each raise your right hand? Do each of you solemnly swear or affirm that the testimony you are about to give to this committee is the truth, the whole truth, and nothing but the truth?

IN UNISON: I do.

MR. MOGER: All right. Each of you please be seated and say your full name into the microphone so we might have in in the record.

MR. TOOKER: I am John S. Tooker.

MS. JUDY ESTILL: I am Judy Estill.

MS. SHEILA MASSEY: Sheila Massey.

CHAIRMAN CONDIT: Okay, Mr. Tooker, you want to begin?

MR. TOOKER: I'll be very brief, Mr. Chairman. Thank you very much for giving us the opportunity to testify today. We're here to show the strong support of the California Cattlemen's Association for programs such as the private lands management program. Our association has long been interested in this type of activity, and we have, out of the fifty-four permittees in the current program, thirty-one are active members of our association.

With that, I would like to introduce Sheila Massey, who is the director of regulatory affairs of the Cattlemen's Association, to say a few words, and then we'd like Judy Estill,

who is very active in our association, is a former president of the Fresno King County Cattlemen's Association, and she and her son manage, or have a ranch in the program in Lassen County.

MS. MASSEY: Thank you, Chairman and members of the committee. I'd just like to reiterate; you do have copies of our formal written statement. The California Cattlemen's Association does support and efficiently managed and enforced private lands wildlife management area because of the many benefits which accrue to landowners, hunters and the state's wildlife. Programs of this type should be encouraged because they recognize the important contribution of livestock operators and other landowners to enhance the very valuable renewable resource and also allow them to receive some compensation for their efforts. Thank you.

CHAIRMAN CONDIT: Thank you. Yes, Ma'am? Please state your name and make your statement.

MS. ESTILL: Thank you, I'm Judy Estill. we have approximately 7500 acres in the wildlife management program. This particular ranch is located in northeastern Lassen County. It is a prime fawning area for the Rocky Mountain mule deer which are a migratory herd. They travel from the Madeline Plains in Nevada to our area. They winter there in Nevada in the Madeline Plains, come to our area for the fawning, then on up into the Warner Mountains for the summertime.

When we first purchased this ranch, some nine years ago, there had been absolutely no previous control against trespassing or deer hunting in that area. Our first year of ownership,

during deer season, was an unbelievable experience. Deer camps, hosting three, four, often more hunters, to each camp appeared from absolutely nowhere. They came in, the hunters came in, from different routes on jeep roads, through public lands and then on into our private property. There was in excess of fifty deer camps in one of our canyons that first season. It was like a convention, believe me. Asking them to leave got us, really, no results at all because they all have the excuse that, "Gosh, we've been hunting here for the last fifteen years. It's where we always hunt." Well, we persevered each year following that, and spent a great deal of time and money patrolling the area, our deeded land area, with horseback and four-wheel drive and so on, and gradually we got the trespassing fairly well under control, although we never had a season, and haven't yet had a season, without some problem.

However, during those years, prior to our entering the private lands management program, scores and scores of deer were taken from our private lands, then the California Department of Fish and Game offered the wildlife management program to the owners of private land, we decided that, perhaps, this would fit in with our cattle business and might also help somehow regulating the trespassers. As you know, the purpose of the program is to encourage landowners to improve the deer habitat and, thereby, increase the total number of deer in the state.

In the past three years we have worked diligently toward that end. We've had two controlled burns in cooperation with the California Department of Forestry in order to create more feed

and browse for the deer. We have also created six different fawning areas in aspen groves. This was done by felling aspen trees, which now act as a fence surrounding areas of from four to eight acres each in size. This is to protect the given area from grazing cattle and sheep.

The aspen undergrowth then becomes dense and provides a prime fawning area. We've also built wire fences in one area to produce the same type of protection for fawning purposes. In addition, we have contacted both federal and state trappers and have them there in the springtime taking coyotes in order to protect the fawns from predators, and our employees have, as well, eliminated many of these coyotes.

Following the original burn three years ago we did not graze that area the following season in order to promote the regrowth of the native plants. Since then we have cut back our cow numbers in that area by about thirty percent in order to keep that regrowth stimulated and provide more forage for the deer.

During the three years in this program we have been in operation, we have spent approximately \$13,000 to implement it, and this represents more than one-half the gross income that we have realized from the fees that the hunters have paid to us. Since the inception of our program, we have been entitled to take a total of seventy deer on this property. However, the actual count taken in the first two years was twenty-five. As our season does not end this year until October thirty-first, I don't know what the exact count this year will be. The low number of deer killed is not because they weren't there, but because

perhaps some of the hunters were more inclined to sit by the fire and reminisce and partake of beverages and tell stories about the ones they got last year than in going out and really tramping around and hunting.

Due to our involvement in this program, we believe that the deer are reproducing on this property in larger numbers. As they are a migratory herd, there will now be more deer on the public lands for other hunters as well. It seems to me that because of this private lands management program that we're involved in, both the hunter on private land and the hunter on public lands will benefit. Thank you.

CHAIRMAN CONDIT: Mr. Costa has a question for you.

ASSEMBLYMAN COSTA: Thank you for coming all this way, and I appreciate your patience. You've explained to us and the committees how you believe it's benefitted the hunters and the habitat. I wonder if you can give the committee some idea on the difference, and you kind of spoke to that in your opening comments, before there was private lands management as to potential losses you experienced, either in the way of cattle or in the way of property, property damage or loss, prior to the program. Now, since the program, how many years have you been in it?

MS. ESTILL: Three years. This is the end of our third season.

ASSEMBLYMAN COSTA: Three years? Three years that you've been in it. What changes in terms of loss of cattle and damaged property and such?

MS. ESTILL: Well, as most landowners and people in the cattle business know, you do experience certain cattle losses. I think the big help it has been to us...

ASSEMBLYMAN COSTA: Sometimes they get mistaken a little bit.

MS. ESTILL: Right. The big advantage to us, as landowners, certainly has been getting a handle on this trespassing and poaching. Just this year, however, during archery season, and we have no tags under this program for archery, we had trespassers. We lost three cows and we found two does with arrows in them on our deeded land, so this does continue to go on. However, in working with the Department, we...

ASSEMBLYMAN COSTA: They shot the does and left them?

MS. ESTILL: Yeah. They shot the cows and the does and left them, right.

You know, the price of cows did go up, so that's quite a sum this year. But this does happen occasionally, and I don't know how you would get around it. It's pretty tough to police remote area country, but the reason we were, at first, involved in the program was to try somehow to prevent this massive trespassing problem we had when we first purchased the property, and it is helping. We have twenty-five hunters there now. They can come in any time during the six week period we have for hunting, and they pay \$600 a tag for a buck tag.

CHAIRMAN CONDIT: I just have one question. On the seventy deer that you were able to, I guess, pursue, that you are

entitled to, I guess, is that correct, you said seventy, since you've had the three year period?

MS. ESTILL: Oh, a total of seventy tags have been issued over the three year period.

CHAIRMAN CONDIT: Do you sell those tags. Six hundred dollars, that was what you said.

MS. ESTILL: For a buck tag, correct.

CHAIRMAN CONDIT: Is that pretty much in line with what other people sell them for that mentioned it today?

MS. ESTILL: I understand some are more and some are less.

CHAIRMAN CONDIT: Okay. Thank you very much. We appreciate your being here, and as Mr. Costa said, we appreciate your patience in waiting. Thank you.

MS. ESTILL: Thank you for your time.

CHAIRMAN CONDIT: We have one additional person. We're going to take a few minutes. He's taking the place of Richard Peters, the vice-president of California Horsemen for Conservation, Mr. Buddy Hemman, and he was sworn in yesterday. Bud, you understand that we're going to adjourn here in a couple of minutes, so you're filling in for this person?

And for those of you who want to know when we reconvene, we'll reconvene this at 1:30, so if you want to take off, Mr. (inaudible).

Mr. Costa?

ASSEMBLYMAN COSTA: Yeah, I would just like to let those, before we break for lunch, who have not signed in but are

interested in the deer management testimony this afternoon to please stick around, because I'd like to get a lot of input from those of you who have been here this morning from those of who have participated in this program about the overall herd management program in California, and so would like some folks to stick around this afternoon for that...

CHAIRMAN CONDIT: The sign-up table's over to our right.

MR. BUD HEMMAN: Thank you, Mr. Chairman, I feel very experienced at being fast. I had to be yesterday. But I do appreciate the opportunity of being able to speak today.

I would like to say that our group, which includes several sports organizations in the State of California, approved of 580 and 601. As a matter of fact, in the mid-seventies, I believe it was in '75 or '76, Charlie Fullerton approached me on this and asked me what I thought of the private lands management program, if I was going to oppose him on it. After hearing the way he explained it, I told him that I would not oppose him on it. I thought it was an extremely important program, and due to the large amount of private properties in certain areas of the state of California in the wintering grounds, it was a necessity. I still feel that way, however I feel that this program has been abused terribly. I think that we're passing regulations, the commission is passing regulations, that are not within the framework of the law. We have, in Section 451 of the California Fish and Game Code, a general season that's very well explained in there that this will be a regular season and an archery season. The Red Hunt who's here today, will be testifying later, can

verify this, or speak on it, but a few years ago, whenever we went into the late hunt seasons and it was presented by the Department to get these late hunt seasons, the commission was probably a little reluctant to do so, and Red Hunt told them at that time that the landowners needed an incentive to get into this program. Without that we weren't going to get them in, and the ones in were going to drop out. However, the law does not allow for that. They do have the right, according to 580 and 601, to set regulations to administer this program. Well, administration of the program is not setting seasons differently from those in the same general area.

Our deerherds to be managed on individual plans according to the deer management program. This is not in conjunction with that management program. If late season buck hunting is okay, it should be okay for everybody. What this plan was originally intended for, for anyone who wasn't familiar with that, was to get the ranchers to actually increase the numbers of wildlife on their properties. I liked that. That would let the overflow go on the public lands and give everybody a chance to take those animals during the regular season. And I'm quite certain that if this was in business competition, gentlemen, there'd be an antitrust law in violation here, because what we're doing is giving special privileges to one group of people that are not being given to the others.

I think that these lands can be managed to attract deer and to literally raise deer and compete with the same season as the regular. Now, if a rancher goes broke, we are very well

alarmed at it, but there are a lot of businesses that go broke. They go broke for a lot of reasons. If they can't manage their cattle, maybe they can't manage the wildlife in a very good manner either, so let's don't look at that as one of the causes for having the program. Let's don't look at it as a subsidy. Let's look at it as a good management program. These people can put that out there, for those deer to come into their property and stay on their property.

As far as the parity of hunting in other areas, it's required by law. That is required. An example: there's one in Tulare County which we have a late hunt on the Battle Mountain Ranch. So, the Department said, "Well, to give a parity hunt we're going to give it in X10," and I believe parity means fairly close, from my interpretation of this hearing. Well, the fact is that it's about a five-hour drive to get there, and it's a very limited number. I think we missed the whole intent of the law here, and I think that if the things that are being done at this time are such a great thing to be done, then why don't these people go back to the Legislature and get laws passed so that they can stay within the framework of the law? We're all required to do that. I see no reason to break a law, or exceed a law, because we say there's a need to do it.

As far as the quality experience and the quality hunt, let me say this: We've referred to unique experience on these hunts. That's what everybody wants to have, but when you go hunting on one of these private lands management areas you have to have two unique experiences. One is being able to get the

money to go. That's the first unique experience. The second unique experience is the hunt, and I applaud these people, I think they're doing a great job, in most cases, but let's do it in accordance with the law.

Now, we do have a lot of violators in the sportsmen end of hunting, and we have a lot of violators in this private lands management program. We have a lot of people who hunt on these private lands that violate the law. But one of the biggest problems, so I'm not going to get into that, really, but I would like to say this: one of our biggest problems is that we have a ranch that is surrounded by public lands. There's a lot of animals that are taken off public lands. People actually go onto public lands. This needs to be stopped. We also have received a tremendous amount of complaints of where there was other private properties surrounded on three or four sides with these ranches. And there other ranchers are very upset because they're literally coming over onto their properties and taking deer. That's trespass. That's a law enforcement problem that I don't think we're prepared to deal with unless we decide to go back to the Legislature and get some kind of legislation that, along with this bill that gives the authority to give some type of law enforcement requirements per ranch.

I like the program. I don't like the way it's administered. I don't think it's healthy for the wildlife or the public.

CHAIRMAN CONDIT: Thank you very much. We appreciate it. And you did a good job. We appreciate it.

Okay, that concludes this morning's testimony. When we get back at 1:30, the Department will make its presentation and respond to some of the questions and concerns that were expressed this morning. Mr. Costa will be chairing the meeting, but we have some other people that weren't on the agenda that want to testify. Mr. Costa, chairing the meeting, may call upon them before or after the Department, whatever his pleasure is.

BREAK.

ASSEMBLYMAN COSTA: All right. If people would get to their seat, and we'll begin with the testimony that was left over from this morning, and then proceed to this afternoon's agenda.

We have a number of folks here that had asked to testify before we had Fish and Game on, and I'll just take them in the order that they've signed the sign-up sheet here.

Mark Palmer, with the Sierra Club? Not on this subject? Later, okay. Ernie Pfeiffer, from Davis? He must have left. If they sign up again we'll give them another chance. Raymond Dowl, the Yolo Sportsmen's Club? Raymond is not here either. I know Gerald Upholt's around here. I saw him earlier. The California Wildlife Federation, California Sportmen's lobby. Have you testified today? Okay, we need to swear you in.

MR. MOGER: Mr. Upholt, will you raise your right hand? Do you solemnly swear or affirm that the testimony you are about to give to this committee will be the truth, the whole truth, and nothing but the truth?

MR. GERALD UPHOLT: I do.

MR. MOGER: Thank you, would you please be seated and state your name in the microphone, and it would probably be helpful to the transcriber for you to spell your last name for us.

MR. UPHOLT: Okay. My name is Gerald Upholt, last name spelled U-P-H-O-L-T. I'm representing the California Wildlife and California Sportsmen's Lobby.

I think the previous speakers have pretty well covered the subject area, and I don't mean to be redundant. I did want to briefly overview our position.

ASSEMBLYMAN COSTA: We would like your position stated into the record as to your view of the private lands wildlife management program and what improvements you think can be made on it, if any.

MR. UPHOLT: The subject matter is controversial within our own organizations, but there is a consensus, and the consensus is that the basis of the private lands management program, the foundation, the ideas behind it are sound and that they are good, and that problems that exist with the program are more problems of implementation, many of which were described this morning, and many of those problems, it appears, are more perceived problem than they are real problems, which is one of the things that a hearing like this helps to resolve.

We've had a meeting with the Department of Fish and Game and discussed a number of things such as the equity point, hunting in the rut, sales schemes, things like that, and think

that there has been a lot of progress made in this area and we'll continue to have these kinds of meetings. As you know, Fish and Game Commission has a policy with respect to the private lands management program. I think that the development of that policy helped to resolve a lot of the problems itself. We feel that there's a definite need to preserve habitat, particularly winter range, and that this is one of the prime benefits of the private lands management program. We feel that the program should not be discontinued. I know there are some who advocate repeal of the code that authorizes this program. We feel it should continue but that we should all work with the Department and with the Commission to clean up the areas that need.

The private lands management operators have their own association, the California Wildlife Unlimited, which was formed to promote their own activity and also, I think that they will do a lot in exerting peer pressure on the areas where tension is needed and be self-policing, so that's a very good development.

It should be stressed, I think it has been erroneously stated here by a number of people that they're selling deer, they're selling antelope, or whatever the tag is. They're selling the tag, which is, they're selling it on behalf of the Fish and Game Department, and they are selling trespass access and services, but they're not selling the game itself. We feel that the Department of Fish and Game are the wildlife professionals in California and that they are doing the best they can to administer the program properly, although there are some areas that need attention.

ASSEMBLYMAN COSTA: What are those?

MR. UPHOLT: Well, they're thing that we've been talking about. Monitoring of the programs to make sure that the habitat improvements and things like that are being properly administered by the private lands management people themselves, and the Department, we think, is doing a good job, and there are some areas where, if they had a little more personnel, a little more funding, or whatever, they could do a better job. But they're doing the best they can. They're professionals in the area, and when there is an area where we disagree with them, we can bring it up with them or with the Commission, and all of these plans are subject to Commission reviews, subject to public input, and we think that there's plenty of opportunity to review the plans and take care of the problem areas with them prior to their adoption.

Now, if there are problems that persist in the plan, throughout the various plans, problems that are not addressed adequately by the Department or by the Commission, we think that's the time when legislation should be considered, but not at this point in time. The plan should be further addressed at the regulatorial level, and as I said, we think that the Department is doing a good job in this area. We're anxious to see the reports of the Auditor General's study that Lieutenant Governor McCarthy requested. We think that that study will point out what is and what isn't with respect to problems with this whole program in that it will identify areas where changes are needed if they are needed. And it will do much to clear up areas of

controversy, areas where there's misconception, areas where problems are perceived rather than really existing, so we're generally supportive of the program and feel that it should continue pretty much as is, and we can deal with the problems at the regulatory level.

Do you have any questions?

ASSEMBLYMAN COSTA: Yes, Mr. Baker?

ASSEMBLYMAN BAKER: From the standpoint of the sportsmen, how do you feel the Commission and the department are doing in setting the number of game, the herds, and in enforcing? Do you think they're issuing too many permits. Do you think they're selling those permits as has been alleged? Is there anything in this program, the 580 program, that would be detrimental to the herds themselves?

MR. UPHOLT: Well, I don't think there's anything in the 580 program that would be detrimental to the herds in itself. I think that you'll find, I shouldn't say "I think" because these are things that are a matter of record and many of the witnesses this morning have made a statement to confirm it, that in many areas there's actually fewer deer, or whatever the particular game animal in question is, being taken than there was before because of the limitations placed on the operators by Fish and Game Department. I don't see this as being a program that's going to be detrimental to the resource.

ASSEMBLYMAN COSTA: All right. If you would please stick around, Mr. Upholt, especially when we get to deer management area, if you have some thoughts on that we'd like to hear them as well.

MR. UPHOLT: Okay, thank you.

ASSEMBLYMAN COSTA: All right. I believe we have everyone who has spoken from the audience that wanted to touch upon this subject matter. Is there anybody else that wanted to address questions dealing with the private lands management? If not, we'll proceed now with the Department of Fish and Game to let them address the issue, some of the statements that have been made by earlier witnesses this morning, as to problem areas that exist within the program and what the Department feels, whether or not they're valid or not, and if so, what they're doing about it and if not, why they're not valid.

The presentation of the Department of Fish and Game at some point will have to reach an agreement as to when we move on to the deer management program, because really one leads into the other. When I was talking to a gentleman outside just a while ago, when he was talking about the problems that the private lands management has brought to the Legislature, I commented to him that if probably we did a better job in California with our deer management in general, statewide, as compared to what other states in the country have done such as Texas and Colorado and some other states that I'm familiar with in programs that they have over a long period of time, fifteen or twenty years, actively repopulated their deerherds effectively, and I think if we did that, even though we have problems in California, that as a result of growth habitat is destroyed, I think we'd have less pressure on the private lands management issue, and that's an area that I want to get into, so with that understood, we'll have

the director. I think everyone here was sworn in yesterday, no? We have two, three new ones.

Well, let's get that addressed now so that we can get into the heart of it.

MR. MOGER: Could I have your name, please?

MR. TERRY MANSFIELD: My name is Terry Mansfield.

MR. JERRY MENSCH: Jerry Mensch.

MR. MOGER: How do you spell that, Mr. Mensch.

MR. MENSCH: M-E-N-S-C-H.

MR. BANKY CURTIS: Banky Curtis, B-A-N-K-Y C-U-R-T-I-S.

MR. MOGER: Gentlemen, would you raise your right hands? Do each of you solemnly swear that the testimony you are about give before this committee is the truth, the whole truth, and nothing but the truth?

IN UNISON: Yes.

MR. MOGER: Thank you. Would each of you please be seated and into the microphone state your full name, please?

MR. MANSFIELD: My name is Terry Mansfield, with the Department of Fish and Game's Wildlife Management Division.

MR. MENSCH: Jerry Mensch, with the Region II Environmental Services Section.

MR. CURTIS: Banky Curtis, with Region I Wildlife Management.

ASSEMBLYMAN COSTA: Thank you, gentlemen. I don't need to remind you that you're all under oath. Mr. Bontadelli, would you please proceed.

MR. PETE BONTADELLI: If I may, we feel that many of the issues that were raised this morning can, as the chairman indicated, best be understood if placed in the context of overall deerherd management. Therefore, the presentation that we give today, that will be started with Mr. Mansfield and then go on to some of the rest of our people here, will hopefully address, if not exactly point by point, at least in general terms, most of the issues that have been raised this morning relative to private lands. After we have completed the set presentation, which includes a section on county land use planning, which begins to show you how this all fits together in context, then if there are any specific items that we have not covered, Mr. Mansfield will attempt to point those out and address them specifically and then we'll open ourselves to any questions the committee may have remaining, either on private lands or general deerherd management. So we'll attempt to wrap them both together for you. With that, I'll turn it over to Mr. Mansfield.

ASSEMBLYMAN COSTA: All right. Please proceed, Mr. Mansfield.

MR. MANSFIELD: Mr. Chairman, committee members, to briefly summarize the private lands wildlife management program, it's necessary to consider a little bit of history. In 1979 the Legislature approved a three-year pilot program to test the feasibility of providing incentives to landowners to protect and improve wildlife habitat. It involved a five-county area in which five ranches, ranging in size from 6500 acres to 270,000 acres were licensed. In 1983, based on favorable input and

experiences in the pilot project, the program was extended statewide. The primary intent was to prevent the loss of valuable wildlife habitat on private property by offering incentives to landowners to make sound use of those wildlife resources. Without incentives, important wildlife habitat on private lands will continue to be lost due to incompatible development.

Since approximately 50% of California's land is in private ownership, including a substantial amount of important wildlife habitat, the future of California's wildlife is dependant upon the condition of that habitat. As specified by statute regulation, any landowner or combination of landowners may apply for private land wildlife management area license. The procedures require that a management plan be prepared and submitted to the Department with a non-refundable application fee, currently set at \$400. The plan must contain the following basic items: a legal description of the property, description and estimates of the wildlife and habitat affected by the program, some management objectives, detailed description of proposed management recommendations intended to achieve those objectives, and the county general plan official land use designation for the area.

Management plans are initially reviewed by appropriate staff in the Department's regional offices. They're either approved as submitted, returned with recommendations for changes, or rejected. If a plan is rejected the applicant may appeal that rejection directly to the Fish and Game Commission. Plans

approved at the regional level are forwarded to Sacramento for additional review prior to Commission consideration. The director makes a final recommendation to the Commission and requests that the subject plan be scheduled as an official agenda item for a public hearing.

Background information regarding all plans is made available to interested members of the public. The mandatory annual renewal process follows a similar procedure that includes field inspections to verify habitat protection enhancement work has been completed.

Following the public hearing on each plan, and renewal request, the Commission may approve the plan submitted, modify the proposal, which is often done, or reject the plan. If approved, the license containing specific conditions for hunting and, in some cases, fishing is issued along with the inventory of harvest tags, those tags being valid only on the area under the approved seasons.

As prescribed in the Commission's regulations contained in Section 601, Title XIV of the California Administrative Code, the harvest tag fees are set by the Commission. Those fees are required by statute to be in an amount appropriate to offset the actual Department costs of administering the program. Those fees, for quick reference, range from twenty-five cents for an upland game seal up to a maximum of \$165 for an elk tag. As I alluded to previously, the Fish and Game Commission has those fees set by regulation. They may adjust those based on changes in Department costs. The same would be the case for the license application fee.

A number of issues and concerns have been raised regarding the program. The following briefly summarizes the intent and will provide a response to those major issues. One concern revolves around the question of does the Department of Fish and Game verify habitat improvements? In my summary statement I mentioned that was an integral part of it, so the answer to the question is "yes." A field inspection at least once each year conducted on each licensed area for the purpose of verifying habitat protection and improvement. The next issue: what is the quality of the lands and do they comply with the California Environmental Quality Act? The response: the quality and complexity of management plans vary, just as the size and capabilities of each of those areas differ. Some of the plans are prepared by the landowner-applicant, while others are prepared by consultants. You've heard from both of those individuals in their testimony today. However, there are minimum requirements that are required by law and regulation. The Department sees to it that those minimums are met. The Commission complied with SEQUA when it adopted the regulations and in establishing the subject program. It involves the exemption process and functional equivalent that, perhaps, can be discussed further later.

Another concern: has illegal hunting within wildlife refuges occurred under the program? The answer is no. The Legislature authorized the Fish and Game Commission to permit hunting and game refuges following a notice, and hearing, upon issue of specific permits with specific restrictions in a

limited, case-by-case basis. Hunting has been allowed under the program in a single refuge in Lassen County. That same refuge has been open annually to the hunting public for the take of pronghorn antelope. The Commission exercises that authority very carefully, only in cases where additional appropriate hunting opportunity can be made available and it's biologically justified.

Another issue: What is the impact of exclusively extended hunting seasons on wildlife populations? Well, basically, these are not exclusively extended hunting seasons. The response would have to include some consideration of extended hunting seasons approved under the program are designed to maintain healthy populations. Since the licenses contain maximum harvest levels, which are well below the sustained yield of the populations involved, there is no harm to those populations. In many cases, the harvest is stratified, that is, divided up, and a tag is good only for a specific short portion of the season, further controls the take of various species. Once again, I emphasize that it's determined to be a sound and yet biologically conservative harvest program.

In addition, as directed by the Commission via a policy, the Department has recommended additional hunts to the public that provide a similar opportunity to those provided on private lands, wildlife management areas, in the same or adjacent zones.

ASSEMBLYMAN COSTA: How much are those utilized?

MR. MANSFIELD: Pardon me, Mr. Costa, I didn't get the last point that you... How much is it utilized?

ASSEMBLYMAN COSTA: Yes.

MR. MANSFIELD: Those hunts, essentially, the question is asked in every proposal that comes before the Commission, what are the similar hunts provided to the public in the vicinity? So, in each and every case, that policy has been in effect approximately two years, the Department will propose additional hunts with those guidelines in mind for this coming year.

UNIDENTIFIED SPEAKER: Inaudible.

MR. MANSFIELD: Well, they're utilized, basically, you could refer in one of the the..., I'm sorry, I think your handout, it would be on page ten, the prices are basically the price the public pays for a deer tag application, so ten dollars and fifty cents for one deer application.

On page ten, the lower half of that page, and this document, the Hunting Regulation Book, you will see eighteen hunts listed there with the designation S-1 through 24, SX1, SX2. Those, for the most part, are the equivalent type hunts. You'll see that they involve antelopes, late buck seasons, some special weapons restriction. In addition...

ASSEMBLYMAN COSTA: Do you believe this helps pick up some of the demand that is placed through the private lands management program?

MR. MANSFIELD: Yes, sir.

ASSEMBLYMAN COSTA: And these are at the same times that those other hunting schedules are set for the private lands management?

MR. MANSFIELD: Yes, sir. You'll note some of those seasons extend to mid-December, some even extend beyond that date. I believe the thrust of the private lands programs, the late seasons that have been discussed, mid-November to mid-December, is that same time-frame.

ASSEMBLYMAN COSTA: They still require that you -- what, most of these are first-round draw, it looks like, as I...

MR. MANSFIELD: Yes, sir. They're popular hunts, yes, sir.

If it would help the Committee, we have a map that shows both the location of the private lands areas and the locations of these special hunts. It's a little small scale. We could move it up to the front here or pass it around, but...

ASSEMBLYMAN COSTA: I think you're probably better off passing it around.

MR. MANSFIELD: ...in proximity.

UNIDENTIFIED SPEAKER: Which ones are which?

ASSEMBLYMAN COSTA: Please go ahead.

MR. MANSFIELD: Another issue that was raised is does the value of habitat improvements correspond to economic returns to landowners who sell hunting rights to the highest bidder? A number of the applications, a number of the licensees in the program, spoke to that issue, but just in general terms, you've heard that not all of them market their hunting opportunities through a bid process. Very few do. The value of wildlife habitat improvements and protection accomplished through the program to date has been considerable. Obtaining, for example,

conservation easements on over 703,000 acres would exceed the practicality of acquiring those with public funds. Landowners have traditionally sold hunting rights. Most area operators do not sell access by bidding, as I indicated. Access fees are generally related to the nature of the services rendered, the lengths of the hunts, the quality of the hunting experience, and a number of other factors. Those services rendered, as you heard this morning, are often where the difference between a five hundred dollar deer hunt and a thirty-two hundred dollar deer hunt come into play. Quality aspects, such as being one of two to three or four hunters hunting a 17,000 acre ranch, those are some other tangible aspects of quality.

The last issue I have listed here: Does the Department of Fish and Game verify herd counts submitted by participating ranchers? The response: herd counts submitted by are operators are not the sole basis for evaluating the plans. In general, the Department uses the best available biological information, including verified surveys, goals and objectives from approved deerherd management plans, and other species management planning documents and data. The same data are used to develop the general season hunting proposals.

In summary, this program did not create fee hunting in California. Evidence suggests that access fees as high, or higher, are paid for hunting opportunities outside the program. By contrast to some of the fees quoted in some of this morning's testimony, typical Rocky Mountain deer hunt, a guided situation, could be expected to run a thousand to fifteen hundred dollars as

just an average or a norm. That does not include transportation out of the State of California. Private lands hunts offer alternatives to going out of state, a high quality hunting opportunity. The benefits produced on the fifty-four areas currently licensed in the program, over 703,000 acres, seventeen counties, are important to landowners, hunters, and the general public in terms of ensuring healthy, more productive, wildlife resources in the future.

Just a few points that were addressed this morning very briefly: it was stated several times, and there appears to be some confusion, that these types of hunts are only approved for the private lands wildlife management programs. I alluded to page ten of the General Hunting Regulations, which clearly indicates that special hunts are provided to the public via the normal processes. We're reviewing the programs as they expand to provide additional, equivalent type hunting programs.

Reference was made that these programs are outside, and may even conflict, with the approved deerherd management plan in the area. That is not correct. The approved deerherd management plans in the area are the basics, are the standards and guidelines, which we use in reviewing the proposals when we're working with the landowners and through the review process.

Enforcement situations: to the best of my knowledge, and I've attempted to verify that this morning, there has been one citation issued on a private lands wildlife management area program since its inception. I have to qualify that by indicating that individuals were cited for trespass who were not

a part of the program, for illegal access. One individual was cited. His license was suspended. He was required to appear before the Commission to show cause why it shouldn't be permanently revoked. Other procedures were taken. That's the one and only case. The Department, as always, would be very receptive to input by the public in general. If you're aware of abuses, if you're aware of violations, we'd like to know about that but we need specifics to act on it.

The last point was, strong reference has been made that this program's designed and intended only for large landowners. I might point out that the range of acreages, in terms of the fifty four licensed areas now, they range from 200 acres to 270,000 acres. There's a great deal of diversity, everything from single species management in the program, deer for example, which is the backbone, to multi-species activities, including, in one case, specific habitat enhancement activities that are done for threatened sandhill crane on a property where, obviously, sandhill crane are not hunted, other water-associated birds are benefitted, the major thrust of the program is hunting for deer, antelope, as the whole basis. The point being made here, that benefits to a wild range of wildlife species are being accrued from the habitat enhancement work on these areas.

Unless there are some specific additional questions, that concludes my general remarks.

ASSEMBLYMAN COSTA: All right. Any questions by members of the committee?

All right, we'll proceed with the other witnesses.

MR. BONTADELLI: Mr. Chairman, if we may, just briefly summarize the deerherd management thing and allow...

ASSEMBLYMAN COSTA: Okay. The other two gentlemen are here as resource? They don't have any comments?

MR. BONTADELLI: That's correct, and Jerry Mansfield...

ASSEMBLYMAN COSTA: Because I do have some questions before you get on to deerherd management.

MR. BONTADELLI: Your pleasure, Mr. Chairman.

ASSEMBLYMAN COSTA: Yeah, all right. I didn't know if these gentlemen had some other..., they're your backup?

Has the Department considered increase in the license fee, from \$400, to offset the Department's cost for review and inspection of these plans, and the reasons that I mention that, and it deals with a broader issue, Mr. Baker is here who serves on Ways and Means..., are you on Ways and Means now, Stan? I don't...

Not this year, yeah. You and I are always willing to serve. And that is is that designated funds, as you know, Mr. Bontadelli, for special programs versus the General Fund question, and some of us have preferences toward designating through special funds programs because we think in that fashion we get a better chance to ensure that those funds actually go for the programs that they were designated for, and Mr. Baker's familiar with this argument on an annual basis, and some of the other members who don't have that feeling would like to see everything in the General Fund, of course, would, if that were to be the case, we would end up not having any monies for a lot of

these programs because it would just be hard to compete under that atmosphere with money for housing versus, you know, for private lands management, that sort of thing, and one of the arguments that they make is that if the funds for that program aren't sufficient to sustain the programs then we ought to just scale down the program. And so, it's in that sense, or in that gist, that I ask you the question. The \$400 license fee, is that enough to offset the costs for the review and the inspection of these plans, and if it's not, where are you getting the money from, and if you're taking it from somewhere else, should we consider raising the \$400?

MR. BONTADELLI: That's an excellent question and was precisely the one asked by the Legislative Analyst in our budget hearings this year. This was one of the specific programs that we had to address for the budget hearings. As noted in advance of the time we got there we had already adjusted these fees. The program itself is one of our dedicated subaccounts of the Fish and Game Preservation Fund. In the first two years of general operation, 1984 and 1985, the program itself had not generated sufficient fees to be self-supporting. As a result of that, the Department went to the Commission, which has the ability to raise the fees, both for the tags and for the inspections and the preparation. The schedule that is now in place is calculated with no growth to be able to completely reimburse the general Fish and Game Preservation Fund within three years. If the program continues to grow at the rate it has been the last few years, we will reimburse the fund in a more expeditious manner

and generate a surplus to this account. We are comfortable enough the this was able to happen that we, in fact, are requesting a new individual be assigned specifically to Region I to ensure that the inspections are done in a timely and thorough manner in that area, since the program is now taking more time than would otherwise have been the case, and funding for that person will be from the fees that we charge.

ASSEMBLYMAN COSTA: So the four hundred is sufficient, is that what you're saying?

MR. BONTADELLI: At this point it is totally sufficient to cover the amounts...

ASSEMBLYMAN COSTA: Is that increase...

MR. BONTADELLI: It is subject to annual renewal by the Commission and may be increased at any time.

ASSEMBLYMAN COSTA: How much was the...?

MR. BONTADELLI: It went from three hundred to four hundred, and several of the tags also went up at the same time.

ASSEMBLYMAN COSTA: I see. And so, you're closely monitoring that and if, in fact, you felt that the funds weren't adequate, you would make recommendation to the Commission to raise the fees again?

MR. BONTADELLI: We absolutely would, and since it's a separate fund, I'm also convinced that the Leg Analyst would ensure that we do should we miss something.

ASSEMBLYMAN COSTA: Has there been any concern, or any voices raised, and I know this morning I missed part of the early morning testimony, that the license fee should be based upon the amount of the net profit that these ranchers make?

MR. BONTADELLI: I'm not sure that it was quite phrased that way, but there were some concerns, including one raised by the Lieutenant Governor in his request of the Auditor General that there should be some question as to whether the total amount of money spent for things such as habitat improvement should be geared to somehow regulate the actual fees charged, and there was, I believe, one speaker this morning who recommended that the overall access fees be set and controlled by the Commission.

It was our understanding, when we entered the program, that the purpose was to ensure that habitat protection was, in fact, accomplished, and it's our reading of the law that we are to ensure the program is self-supporting, not necessarily one designed to subsidize other portions of our program in the Department.

ASSEMBLYMAN COSTA: I don't think anyone wants that.

MR. BONTADELLI: What we're trying to do is to have the program, itself, internally self-supporting, and hence, we set the price on the tag, so the tags and the program are set by the Department. The quality of services provided varies so drastically from program to program, all the way from merely access and in some instances to fully guided tours and overnight sustained accommodations, such as you heard, that we decided that the marketplace is probably the best regulator of that that is available, so we have not got into the process of regulating anything other than the specific areas that we felt were controlled for the biological benefits and habitat control of the program.

ASSEMBLYMAN COSTA: I can understand that. A follow-up to the first question I asked: how much, actually, is the supervision of the plans and whatever biological research or advice that you offer? I was looking through the tracts magazine. How much would you estimate the whole private lands management program costing the Department now, currently?

MR. BONTADELLI: I believe the range has been somewhere between \$480,000. It's increasing as we have more programs. The number is in the budget. I can pull that for you and make it available to the Committee.

MR. MANSFIELD: Mr. Chairman, I think some wild figures I have from the period 1986-87 would have costs when we're working on our predicted estimate of about sixty plans, we envisioned about \$56,000 or \$57,000 being Department costs. It's difficult for us, in looking at our cost accounting and so on, our unit managers, both Wildlife and Fisheries in some cases, and the wardens, some of these ranches are large and they make up a large portion of their district or territory to start with. They've historically done work on it, so it's a little bit difficult to separate out the work they did prior to the program versus the work that's just program-related. Our best estimate this last year was about \$57,000 direct cost to the Department.

MR. BONTADELLI: The budgeting number for that was \$59,000 in terms of our revenues, and so we're right, almost exactly, on target in terms of that year.

ASSEMBLYMAN COSTA: So you're indicating that, in fact, the state may be getting paid for some of the services that they

were indirectly providing prior to...? You could make that argument.

MR. MANSFIELD: As I indicated, it's difficult to separate duties associated with the program...

ASSEMBLYMAN COSTA: I understand what you said.

All right, moving on to deerherd management, is that correct? Are there any other questions as it relates to private lands management?

All right, hearing none, we'll move to the larger issue and one which I've stated on several occasions, and earlier this year I indicated would be the subject for a hearing, and we've arrived at that point now, and that is: how do we do a better job in California of repopulating our deerherds, realizing that when you look at the the problem areas, that we're competing with loss of habitat, illegal take of deer, and diseases, and probably the loss of habitat happens to be the greatest, I suspect, the greatest threat to our deerherds in the state. How many deerherds do we have in the state currently?

MR. MANSFIELD: There are approximately 104 deerherds recognized. We have planned for them..., there's 79 herd plans, but over a hundred distinct deerherds.

ASSEMBLYMAN COSTA: For how many...? Is there a total?

MR. MANSFIELD: There are 79 plans for approximately 104 deerherds.

ASSEMBLYMAN COSTA: For a total deerherd population of...?

MR. BONTADELLI: Our best estimate would be somewhere around 800,000 to a little over a million deer in California. It varies from...

ASSEMBLYMAN COSTA: Uh-huh. Please begin.

Do you have any estimates of what it was ten years ago?

MR. MANSFIELD: Ten years ago would be lower, and I'll try and touch upon a little chronology, the history of deer and deer numbers in here...

ASSEMBLYMAN COSTA: Give us a perspective for that.

MR. MANSFIELD: Yes, I'd like very much to do that, yes. I'll get right to that.

Obviously, deer are of a great deal of interest to a majority of the public. It takes a basis in the fact that deer are the most numerous, they're most widely distributed, big game mammal in California. They use both migratory and resident strategies to adapt to a variety of habitats and geographical conditions. There are over a hundred separate herds recognized by the Department, and deerherd management plans have been completed for seventy-nine units, which deal with either single herds or groups of several herds. Summaries of these plans are being produced and made available to the public as an information service. I have some examples of a herd plan and the summary that you've heard a great deal about today. I'd like to make those available, just for a quick reference.

This herd-by-herd management program, including necessary restrictions on hunter numbers, was mandated by the Legislature in 1977. In 1978, the Department recommended, and

the Fish and Game Commission adopted, regulations to implement the existing program. To put these major changes in perspective it's necessary to briefly review the history of California deerherds.

Under pristine conditions, prior to the 1840's, deer occurred in numbers generally lower than exist today, with the exception of the Central Valley. Deer were scarce in the dense timbered forest regions. Following the discovery of gold in 1948, a period of unregulated hunting exploited deerherds as meat-hunting was common. Deer numbers were drastically reduced during the period 1849 through 1900 by a combination of factors, including unregulated hunting, changes in vegetation, including logging, agriculture, livestock competition, and a series of severe winters. After 1907, programs designed to restore deer breeding stocks were initiated. They including legal protections, creation of refuges, some changes in forest management techniques, control of deer predators, and, in some cases, a coincidental reduction in livestock competition. The natural vegetation changes following logging reduced livestock grazing, increased viable deer forage in virgin forests and on heavily grazed ranges. The period 1920 through 1940 was a time of deer recovery to nearly fully stocked ranges. Between 1940 and 1960, deer numbers remained at relatively high levels, contributing to range damage and habitat destruction. In response to these condition, the Department recommended additional hunting opportunities, including antlerless deer hunts, to allow the public to use surplus deer produced as a

result of the recovery thereof. These actions were not universally supported by the public. Some individuals felt that recovery programs were still needed in order to maintain healthy deerherds and that there never could be too many deer for the habitat to support.

Unfortunately, these major disagreements resulted in statutory changes in 1957 which still have placed limitations on deer management options in the majority of our deerherds. That's a subject that, perhaps, the Committee would want to consider in other testimony.

Moving on, in the late 1960's and early 1970's, the effects of supporting too many deer in some important ranges coupled with factors including bad weather, loss of habitat associated with major development including agriculture, reservoir, roads, and urban expansion dramatically reduced deer numbers. The more localized situations, diseases and parasites were also identified as problems as well as imbalances in seasonal ranges of some of the migratory herds. Interestingly enough, similar trends were also experienced in other western states through the mid-1970's. Along with the decline in deer numbers came a corresponding decline in hunting harvest, hunter success, and, as expected, hunter satisfaction.

To address this issue, this major deer management problem, the Department formed a committee, developed options for restoring healthy herds, and providing high quality diversified deer resources. A plan for California deer was produced in 1976 which served as a basis for legislation enacted in 1977. That

revised the deer management statutes and created the current system. The major features included the mandate to designate deer management units, prepare management plans for each of these units with specific objectives intended to restore and maintain healthy deerherds and provide high quality diversified use of deer. In addition, the new statutes modified the mechanism for thirty-seven of the fifty-eight counties to modify and hold public hearings rather than the Department and the Commission holding public hearings to antlerless deer take. This legislation also provided specific authority to the Commission to restrict hunter numbers when the department determined that it was necessary to prevent adversely affecting deerherds, impairing hunting experience, or endangering the public safety.

The first major step in changing hunting regulations occurred in 1978 when the state was divided into deer management units and hunters were required to select zones, the zone or zones, in which they wished to hunt. These zones closely corresponded to deer management boundaries. In 1979, the first quota zone, that's X5B, which we've heard a little bit about, was created, primarily in response to critically low post-season buck numbers, poor hunter success, and poor quality hunting experience. It was the only quota zone in effect during the period 1979 through 1981. In 1982, two additional quota zones were added: X5A, also in Lassen County, and X10 in the southern Sierras. Three zones were added to the quotas and restrictions in 1983, three more were added in 1984. In 1986, ceilings were established, that is a maximum number of permits that would be

sold, in all the remaining deer zones, with the exception of the large coastal zone and hunting zone A. The final step was the adoption of quotas for all zones except Zone A in 1986. These quotas were set annually based on a careful review of the previous harvest, hunter success rates, and deerherd conditions with the intent to achieve and maintain the specific approved deerherd objectives. Some of those objectives related to diverse hunting experiences and a high quality hunting experience that played into the issue of necessary restrictions in hunter numbers.

To meet the demand of providing high quality diversified use of deer, the Department has recommended special deer hunts for late season bucks, antlerless deer, and either sex deer hunts, as well as additional opportunities for special methods of take, including archery and muzzle-loading rifles. These special hunts offer the public opportunities which are not available during the general seasons. They have special restrictions on the number of permits available and are specifically intended, once again, to achieve the objectives of approved deerherd management plans and Commission policies. A major positive action in support of deer management was taken by the Legislature in 1984 when it enacted a bill, AB 3735 by Assemblyman Hill, to increase the cost of deer tags with a portion of the increase earmarked for improving approved deerherd management plans. In the initial year, that was fiscal year 85-86, approximately \$940,000 was generated by the Department, and the Department was authorized to spend \$900,000 for habitat improvement, research,

and approved surveys of deer populations and ranges. In FY 87-88, the program budget is now \$1.78 million. Approved habitat improvement projects include prescribed burning to improve deer forage, planting preferred forage species, and increasing the availability of water in deficient areas. Projects will affect over 36,000 acres of habitat this year alone. Research and surveys include studies to define important seasonal ranges and migration corridors, for protection and future improvement. Expanded herd composition counts to determine herd productivity and conditions, additional disease research related to bluetongue, and deer-predator relationship studies to address mortality factors. A total of ninety-nine projects has been funded in the amount of \$1.3 million to conduct those specific project.

In general, emphasis for habitat protection has also been placed on providing input into land use planning, both on public and private lands. A set of standard deer habitat maps has been developed for all migratory deerherds throughout the state. These maps and other information have been provided to county boards of supervisors as a basis for identifying and protecting critical deer habitats. In addition, the expansion of the private lands wildlife management program has also assisted in improving deer habitat and protecting that habitat on private lands in seventeen counties.

If there are some specific questions, we could go ahead and try to deal with those. Otherwise, Mr. Mensch has a presentation related to the concerns for land use planning and

protecting critical migratory deer habitats. Our intent would be to move on into that portion now with the...

ASSEMBLYMAN COSTA: Am I to understand, by reading your statement, that the deerherd population in California is as high as it's ever been?

MR. MANSFIELD: Not necessarily. No, sir, I don't think that's correct. I believe in the period 1940 through 1960, that was the period of peak deer numbers. We've lost habitat since that point in time. I think it's unrealistic to think we could ever recover those maximum numbers.

ASSEMBLYMAN COSTA: How much do you estimate we were up between 1940 and 1960?

MR. MANSFIELD: Best estimates indicate that in peak periods we probably had a million three hundred thousand to a million five hundred thousand deer in the state. We're now down, probably, not much over a million. But those gross numbers statewide are a little soft.

ASSEMBLYMAN COSTA: It may be as little as eight hundred thousand?

MR. MANSFIELD: It could be as low as eight hundred thousand, yes, sir. The point to be made though, peak numbers in the fifties and sixties, we've recovered from the low point..., say, 1974 would be the low point in recent times.

ASSEMBLYMAN COSTA: How low would you estimate it at that point?

MR. MANSFIELD: We were probably down to the levels of magnitude, I'd say somewhere in the 650,000 range, if we had to..., a third lower, perhaps, than we are now.

ASSEMBLYMAN COSTA: And how much loss of habitat have you experienced in the last twenty-five years?

MR. MANSFIELD: Perhaps Mr. Mensch could speak to that a little bit better. Some of the critical deer winter ranges we've lost anywhere from thirty to almost seventy percent of deer winter ranges in some locales. Mr. Mensch might be able to help on that.

MR. MENSCH: I believe...

ASSEMBLYMAN COSTA: Would you speak into the mike, please.

MR. MENSCH: We have a handout that is a copy of the presentation that we gave to the Butte County Board of Supervisors which provides a summary of the estimated habitat losses on the winter range in Butte County. It's broken down by herd and if I can refer to that, real quick, I can give you the exact numbers.

MR. MANSFIELD: Mr. Chairman, if I could, while Mr. Mensch is looking information up, in the center portion of your tracts publication, pages four and five, by the way this is being made available to the hunting public and the interested public as a communication tool, you'll see a whole series of statistics. Down the left-hand column is the deer hunting zone, and that corresponds to the map you see. The headings are pretty self-explanatory. We list herds; we list what the total buck harvest, the tags sold, the fall bucks per hundred does, as an interesting item to look at, fawn production. I can compare the buck ratio versus the objective to see if we're slightly below,

if we're at the objective, or if we're above the objective, and that's meant to be a quick summary of the information on herd performance. This is a quick statewide summary of how deerherds are performing right now.

ASSEMBLYMAN COSTA: Excuse me, how come you have, say, Zone A, for instance, you have the buck per doe ratio and such, but you don't have anything under '86 success or bucks harvested or tags sold?

MR. MENSCH: Mr. Costa, you'd have to look at the Zone A Total line, it's the line at the bottom, sir.

ASSEMBLYMAN COSTA: I see, that's how you do it. You just don't break it down.

MR. MENSCH: Yes, sir, in the large zones with multiple herds, if we can break it out, if our herd and the hunting zone are absolutely corresponding we give it for that zone.

ASSEMBLYMAN COSTA: All right.

MR. MENSCH: To answer specific questions, within the east Tehama portion of Butte County, we estimate forty percent of the critical winter range has already been lost, on the Bucks Mountain herd, 28%, and on the Moretown herd, approximately 50% of the total winter range habitat has been lost.

As Terry indicated, on the specific program we're talking about is the habitat portion of the Department's programs. It's carried out by the environmental services function, and it's a program involving project review for under various laws and regulations, including the Subdivision Map Act and California Environmental Quality Act. Part of that program

involves analysis of land use changes and submission of recommendations to the decision-making agencies, usually the board of supervisors or the planning commissions. Under the various laws, the Department is a trustee agency with recommending authority and not decision-making authority. The overall goals of this program are, basically, to protect fish and wildlife habitat for all species. Today, we have some specific direction and efforts we've put onto deer habitat protection. The program is accomplished through providing decision makers with information on the impacts of projects, on fish and wildlife, and recommendations to mitigate, or minimize, those impacts. Part of our process of review requires analysis of current land use plans, such as general plans, the various elements, for example land use conservation, open space, and transportation elements.

Land use analysis also requires an identification of the existing resources, the populations, types of habitat, migration route, etc. Information is available from research by our field biologist. A particular area of emphasis has been the deer subdivision conflict in Butte County. The department has been actively involved in this program for the past five years and has recently made some very specific recommendations to the board.

If I can refer to the first map that I have put forth here..., This map depicts the ranges for migratory deer within Butte County. We have an orange in this area depicted as the critical winter range, the yellow is the designated winter range, we have intermediate range, I don't know if you can see it, we

have arrows where we have documented migration corridors, we have critical summer range and designated summer range. These ranges extend on to Butte County. They obviously don't quit right at the county boundaries, here, but this map was specifically for the analysis of Butte County. Now, the critical ranges are those ranges which are absolutely essential to the maintenance of the deerherd. The designated ranges are of lesser value, but still sustain significant use in most years. Intermediate ranges are generally those areas that deer move through, do not sustain high numbers of deer over a long period of time. Critical summer range: obviously the same thing as for winter range, are essential to maintenance of the herd, and these would also include some of the fawning areas.

Along with the determinations are goals for habitat protection based upon acreage, and these are based upon the best biological information that we have at this time. For example, we believe to maintain the value of a critical winter range area, a minimum parcel size of forty acres is necessary to sustain that. Within the designated areas, twenty acre parcels. Intermediate, some areas, twenty and other areas, such as migration corridor sites specific and are based upon the very specific conditions in that area. Within this parcel designation is also a secondary benefit to all wildlife species in that they're kind of carried down with the coattails, within those areas, minimum parcel size is recommended for deer, essentially, satisfactory to maintain all the other wildlife species.

Within our analysis of the deer habitat, we also recommend on the parcel size alternatives such as clustering, transfer development rights, and alternative open space.

The next step in our analysis is to identify the existing levels of zoning and development.

ASSEMBLYMAN COSTA: How much cooperation do you get from the counties, for example, with Butte on your program management?

MR. MENSCH: It varies. They are interested in the impacts to the deer, as they make a valuable contribution to the economy, but they're also concerned that protection of the deer does not inhibit or prohibit development within the county.

ASSEMBLYMAN COSTA: In other words, they want it both ways. It's not unusual in government to want it both ways.

MR. MENSCH: What we're looking at here is the areas in black are those areas that are existing less than twenty acre parcels. The crosshatch, if you can see those, are less than forty acres. Basically, these areas are lost to deer for maintenance of that deerherd.

ASSEMBLYMAN COSTA: The areas in black?

MR. MENSCH: Yes. Both of these areas we'd consider, essentially, as lost.

ASSEMBLYMAN COSTA: And how about gray?

MR. MENSCH: Well, this is the area near the town of Paradise. Historically, as you can see, this was deer range. We no longer consider it deer range. There are some deer in there...

ASSEMBLYMAN COSTA: That are crazy enough to wander through there...

MR. MENSCH: Yeah, well, often some resident deer herd, they're members that like to feed on the local rosebushes and that...

ASSEMBLYMAN COSTA: They put watermelon out on the stump and that stuff.

MR. MENSCH: Some deer can coexist with people very well. They get used to people, but generally, the migratory deerherds do not survive very well. Dogs, one of the prime problems, but within these areas, as you can see, the pattern of development has a helter-skelter random approach with little concern, at least from our standpoint, for deer. For example, as you can see, these arrows are coming, the deer move with this generally downhill area. A great number of these areas, for example, here...

ASSEMBLYMAN COSTA: That's the altitude of Oroville, that's Oroville Lake.

MR. MENSCH: This is Lake Oroville. It's generally around 2500 feet, running down to 1,000...

ASSEMBLYMAN COSTA: So you get up to that yellow line at the top and you're getting up to three or four thousand feet?

MR. MENSCH: Yeah, this would generally be about..., the top of this yellow line here, probably about 3500 feet, it kind of fits with the snow line.

What happened with this type of development is that deer moving across this way are, basically, blocked from here, so that

portions of this range are essentially lost. Even though they haven't been developed, and there is not a house on it, it looks good at this time, with full build out of these areas there won't be availability of deer to move through the area.

ASSEMBLYMAN COSTA: I don't understand; you said it hasn't been developed, but it's been blocked?

MR. MENSCH: These areas are legally subdivided down to as low as five acres and even lower. Now, the parcel may be..., there may be ten five-acre parcels with only one of them built out. Within the next few years they all will be built out.

ASSEMBLYMAN COSTA: I see. You're predicting the future. Okay.

MR. MENSCH: Yes, these are legal subdivisions, even though...

ASSEMBLYMAN COSTA: So what you're saying is, in this case, the county hasn't cooperated very well with your management plan. I mean, that's what that illustrates to me.

MR. MENSCH: Well, what we're trying with the county, one of the steps is to identify what we've lost and where development can occur in the future. Now, one of the other areas, the other approaches or processes that we go through, is also identifying other land ownership and land use, for example, this is the public land within the area, including the state parks around Lake Oroville, the forest service, some scattered parcels of the BLM. Just for your information, this is the Musky Buck private lands management area, now the only one that occurs in Butte County.

The other step in the process is to identify the existing zoning. This sort of narrows down the area of conflict.

ASSEMBLYMAN BAKER: Could I ask, are we trying to recruit other private lands management areas in Butte County, because I think the testimony this morning pretty clearly stated that if they don't find an alternative to the shrinking beef price, they're going to develop. That land's not going to sit there as a property tax gift to counties and the state.

MR. MENSCH: Well, an example of that is that part of the area that's included within this private lands management could be under existing general plans and land use elements. It currently is zoned for uses at five acres and with special conditions down to as low as one acre. So you can see, part of this land could go into subdivision with basically just filing a subdivision map or a parcel map.

ASSEMBLYMAN BAKER: So unless we have an extreme rise in the price of cattle we ought to get in and perhaps save some more of this land, ala Williamson Act or management, more likely your wildlife management plan.

MR. MENSCH: Well, that's the..., what we have, looking at the map, is that these large areas of orange are generally under agriculture, which Butte County is a forty acre minimum, or under timber protection zoning, which is 160 acre minimum. These areas in green are existing zoning within Butte County where they can go down to five acres, as long as it perks. If it meets certain tests they can even go down to one acre, meeting the septic tank limitations, generally, and slope limitations.

It points out the areas, again current zoning, that primarily the conflict, that this 2500, 3500 foot elevation is very desirable. The same aspects are happening throughout the west slope of the Sierra; Tuolumne County, El Dorado County, Calaveras County, Placer and Nevada. A map would look very similar for all of these areas.

ASSEMBLYMAN COSTA: So, when you look at the issue between disease, between loss of habitat, and predators, could you give the committees here some idea as to what is the..., what percentage those three areas attribute to the decline of the state's deerherd population? Getting an idea, obviously, from Butte County, what you're up against?

MR. MENSCH: Well, with all of the buildup under the existing proposal, you could probably see some up to 50% of the critical winter range being lost very easily, and through the secondary impacts of blocking migration movement, you could easily see even more, 60%, probably, wouldn't be an unrealistic estimate. The total critical habitats, like I said, that's not the total habitat, but of those that are absolutely critical for future population maintenance...

MR. MANSFIELD: Mr. Chairman, if I could, I think your question was really very much on point here. The important thing is this habitat loss and the importance, particularly, of winter range for migratory deer, is that that's a stressful time for them and certain conditions, any of these added stresses, are liable to increase their susceptibility or their mortality factor, as you mentioned, disease and predation. So they can be

linked together, but the permanence of habitat loss, of critical habitat loss, the permanence is something we can't overcome. Of course, the populations are somewhat resilient; they can respond back on a predation issue; they can respond back generally to the disease issue. This is permanent. But, if course, winter range, migratory deer, when they're funneled down and congested, they become more susceptible to other forms of losses, so this has to be the critical issue. It's the paramount issue. We're putting, probably, 75% or 80% of our emphasis on habitat protection. We're trying to deal with those other issues as well, but the permanence of that is an important point.

MR. MENSCH: Okay, the other thing is recognizing in the state of California that the population isn't going to become less. It's growing very rapidly and will continue to grow.

ASSEMBLYMAN COSTA: Our fear is that the deer population is going to become less.

MR. MENSCH: Pardon me?

ASSEMBLYMAN COSTA: Our fear is that the deer population is going to become less.

MR. MENSCH: Well, we're trying through a cooperative approach to accommodate both. Now, it may not be possible...

ASSEMBLYMAN COSTA: You're a biologist?

MR. MENSCH: Yes.

ASSEMBLYMAN COSTA: Do we have enough habitat in the state, is it realistic to set a goal supporting a goal of a deerherd of a million more over the next twenty-five years?

You know, we get twenty-seven million people and we'll probably have thirty-five million people by the year 2000...

MR. MENSCH: Well, I'm optimistic enough to think that we are, as biologists, smart enough to know ways that we can make better use of the ranges that we have, and that they can, in fact, be improved or maintained at a high level so that maybe we can support more deer through intensive management on some lesser ranges, through various management techniques: planning, vegetative manipulation, and that type of activity.

ASSEMBLYMAN COSTA: And some of your programs that you're pursuing currently do that?

MR. MENSCH: Yes, that's one of the things, and if I can put up the last map, the last overlay, this is an area, basically, what we've presented to the county as a proposal to provide for growth with minimum impacts to deer. This along with a number of other recommendations, which I believe you will have in the handout there for the record, what, basically, we're looking at here is, we're saying, deer can't get here without taking a taxi. There's no way migratory deer are going to get over here.

ASSEMBLYMAN COSTA: You're not advocating deer taxis are you?

MR. MENSCH: No, I'm not. What I'm advocating, I think, is a realistic approach that this area is lost. It's lost already. There is no way, short of bulldozing the town of Paradise, that we're ever going to get deer back there. So we're recommending to the Board of Supervisor that they seriously

consider orienting development within these types of areas, within these red areas. This area is already lost. This area within here is lost to deer use. Development in the future can occur in there with little additional impact over what's going on now. We believe it provides large numbers of areas, a variety of areas, considerable acreage for development with little impact. We're recommending that, when development does occur, there be fees assessed where we go out and improve the habitat over here in a cooperative manner. We've worked with CDF under the Vegetative Management Program to come up with some alternatives and some proposals to do that. The board of supervisors has not accepted this plan. It's still under discussion with them, but what it would do...

ASSEMBLYMAN COSTA: How's the discussion going?

MR. MENSCH: Rather rocky at times.

ASSEMBLYMAN COSTA: Do you have a timeline for acceptance?

MR. MENSCH: Not at this time. We thought we had some commitments. There have been a number of questions raised subsequently. We're still actively discussing it with them.

Through a number of other things, such as dog control ordinances, when you get a small piece like this those dogs can roam significant areas around there, very effective predators on deer. Through a number of those measures we hope that we can protect and enhance these areas, recognizing that there's little we can do the Department any good to oppose a subdivision here. We're not accomplishing anything. So, in fact, we come back and

say, can you, board of supervisors direct and approve development in those areas and maintain minimum zoning for the acres, twenty acres, within these areas. The other think we're talking about is transfer development rights. Maybe that's been used in the coastal zone, maybe an appropriate manner to work with the..., still allowing some development, still allowing continuation of livestock grazing which may be, at time, uneconomical, but through development rights and intensified development in some of these areas and maintain these areas in larger parcel size.

MR. MANSFIELD: Effectively, the things that we're looking at now, that we have under our direct control, are issues that we can manipulate through the Hill bill funds, essentially habitat manipulation, disease control, providing this type of information to the final decision-makers, the boards of supervisors, city councils, and others who have ranges that are impacted, and private lands management programs in cooperation with the landowners who hold the lands in between, are the things that we have directly under our control as well as regulation, but the majority of the issues of conflict are under the control of others under state law and we're not here at this point to advocate a shift, because we feel our best approach is to provide those people with the best information we have available and then take our chances until the current system is in place and one that has worked for many years.

ASSEMBLYMAN COSTA: You're not following the Speaker's lead in advocating that, maybe, we consider doing away with these counties, huh?

MR. MANSFIELD: We're always willing to look at new options.

ASSEMBLYMAN COSTA: I mean, county government, as a form, how things work.

MR. MENSCH: Basically, that's the program. We have a similar program going on that initiated mapping analysis that's starting out on Plumas County. We've been doing some work in Calaveras County in similar activities, and looking, again, at their general plans.

ASSEMBLYMAN COSTA: A rather controversial issue sometimes is whether or not we ought to continue, the Legislature ought to continue to allow counties to have discretion over the, what is it?, the antlerless hunts in their areas. Does the Department have any wisdom they wish to bestow upon the committee on that issue?

MR. MANSFIELD: Mr. Chairman, as I alluded to in my initial remarks, those statutory changes that were put into place in 1957 place some severe limitations on our deer management options. One of the things you've heard from today is additional hunting opportunity, additional hunting success, people would like to see more deer. Antlerless deer hunting, or flexible options on deer hunting, can do just that. We can increase deerherd productivity in given locations. We can increase the amount of hunter opportunity. We can increase the health and condition of deerherds and provide a lot more benefits to the public, maintain healthier deer. We view the facts setting up somewhat of a conflict. On one hand we're statutorily mandated

to manage for healthy, productive deerherds, high quality diverse use in the deer management statutes, yet there's an inconsistency that provides for non-biologically based restrictions that prevent us from implementing approved herd management plans that are biologically sound herd-by-herd management in thirty-seven of the fifty-eight counties.

I think there are some options for improvement. It think, in many cases, the hunting public, the net result, the hunting public would like to get, we can come to an agreement on. As a matter of fact, in many deerherds, we've done just that, in the herd plan, we've come to agreement where the net result, the goal, is agreeable. It's the objectives, in terms of prescribing in East Tehama...

ASSEMBLYMAN COSTA: By allowing the counties to have that jurisdiction, does that...?

MR. MANSFIELD: It prevents us from implementing a prescription of harvesting 3,000 antlerless deer per year in the East Tehama deerherd. That has been biologically a sound proposal for the last several years.

ASSEMBLYMAN COSTA: But you can't do it?

MR. MANSFIELD: We are prevented from doing so by the local boards authority, yes, sir. That's an example. Now, I'm not here to tell you that every deerherd needs antlerless deer hunting today. But a number of those, it's in the approved deerherd management plan. We can increase productivity.

ASSEMBLYMAN COSTA: It just seems to me that it makes more sense to manage it on a statewide basis as opposed to a

county..., I mean, the county's have got enough problems today without attempting to try to..., and the herds, in a number of cases, don't necessarily follow the boundaries of the counties either.

MR. MANSFIELD. Absolutely.

ASSEMBLYMAN COSTA: So, if we had a brave soul out here that wanted to carry legislation that would preempt that ability, you wouldn't oppose it?

MR. MANSFIELD: I believe the Department would work very hard with that individual in accomplishing that objective.

ASSEMBLYMAN COSTA: Maybe we'll get the speaker to carry it, since he doesn't really have much to lose in that situation today.

No, I am interested in looking at that, because it seems to me that's never made a lot of sense, even though local hunting groups sometimes think they've got a better ability to leverage their local county and having a deal with you folks in the state, but from an overall management standpoint it doesn't make much sense.

MR. MANSFIELD: Mr. Costa, in your initial remarks, you pointed out some other progressive deer management states around the western U.S., and it's interesting, in talking with hunters, how many of them willingly make trips to those states, and they'll find, for the most part, those states have fairly aggressive biologically based antlerless deer hunting programs to help them implement their overall management, so on one hand they reap the benefits and even go out of state to utilize it, but yet

maybe don't make those wishes known to their locally elected boards of supervisors. Why can't we have that mechanism in place here? So it's an interesting contrast.

ASSEMBLYMAN COSTA: Let me suggest this, and I know the director hasn't, probably, been there long enough to think about this, but you might want to give some thoughts to this fall, I know CSAC has their annual meeting, it's going to be in Monterey, I think, before Thanksgiving, to sit down and talk with..., they must have a resources committee or something that deals with this area. We might also want to contact Les Cohen's groups with the local county supervisors association, because man of the counties actually have herds that are impacted, are there, and maybe we could sit down and see if, maybe, we could see if we could reach an agreement in this area before (inaudible) some legislation that we might follow through with. At least try that method before we look at legislation.

MR. BONTADELLI: It's a highly appropriate suggestion and one that, in this particular area of county planning, has been the approach the Department has adopted the last three plus years. We have gone out of our way, both with the past Director, and I intend to continue the same direction, of meeting with the Rural County Supervisors Association, either myself or our regional managers, along with biologists to go through the types of problems we have with zoning, to discuss what options we feel they may have, to discuss the types of offset development rates that were discussed, and the concept of antlerless management. Quite honestly, it is frequently easier to discuss all of those

purely economic issues related to land use planning than it is to discuss what has become a highly emotional issue of antlerless hunts in some of these counties. I think some of that tenor came across this morning in one of the major objections to some of the private lands programs, the fact that the private lands program, because of a specific provision in the law which allows it to proceed, that section of the code is not subject to the county veto power on antlerless hunts.

ASSEMBLYMAN COSTA: Any comments or questions by members of the committee?

In conclusion, then, what would you advise the committees here as to..., we've got the Hill legislation that has been passed, we've raised the tags, we've got programs that are increasing, you say we've picked up from the Valley in the early seventies of which we were around 600,000 level total deer in that state, and we're now approaching somewhere close back to a million, and the biologists tell us that even with continuing eroding of habitat that we can support over the next twenty-five years a million deer or more in California. Is that adequate? I mean, do you really think that we're providing you with enough resources. You referenced and I referenced with the other states, are we on top of what those other states are doing? Who wants to take that on?

MR. BONTADELLI: Basically, I think we're hoping we can keep and serve the hunting public well. This communication tool, where we're feeding input back to the hunters, we're trying to establish a dialogue, we invite hunters to write articles that

will appear in this publication. We're conducting a hunter survey. I guess we're relying on getting more hunters involved, increasing the tag sales, increasing license sales, the only way I think we can realistically accomplish those kinds of ...

ASSEMBLYMAN COSTA: You think the current management program in place does that?

MR. BONTADELLI: For the most part, we've got the Hill bill, we need to overcome the limitations on the antlerless hunting...

ASSEMBLYMAN COSTA: Do you think we need to increase the fees?

MR. BONTADELLI: Increased fees may be an option there. What we might need to look at is serving the hunting public a little better and, perhaps, recruiting more people into it. I think...

ASSEMBLYMAN COSTA: How do we serve them better?

MR. BONTADELLI: Through communication tools. Through additional hunting opportunities. a lot of hunters don't, they relate to hunting quality as seeing a lot of deer. They don't have to kill a deer. Others would really like to take a deer home with them. On antlerless hunting option, when we restrict the take to mature bucks only, as we do over much of California, we're talking about only declaring legal approximately twelve or fifteen percent of the deer population. No wonder we have a somewhat limited hunting success in most of our areas. That restriction is imposed upon us politically more so than it is biologically. I believe we can increase hunting opportunities,

quality of hunts, establish a dialogue so that hunters realize that we don't make regulation changes on subjective judgements. We make it on the basis of how the deer is performing because we do the survey work. We could stand more field assistance, both manpower and money, do a better job documenting the status of deerherds and deerherd ranges. We've got the Hill bill mechanism to get some things done...

ASSEMBLYMAN COSTA: Are the fees sufficient as in the question I asked you earlier, with private lands management are the fees generated from the increase that we made during the Hill legislation sufficient to do all that you're doing currently and then some?

MR. BONTADELLI: I believe that they are at this point. The issue has been one of appropriate personnel to help manage the program.

ASSEMBLYMAN COSTA: How much is it costing you a year for these programs?

MR. BONTADELLI: There's an annual report submitted. Our baseline pre-Hill bill was about, how much per deer, Terry, do you remember?

MR. MANSFIELD: I don't remember the baseline. We got \$900,000 expenditure the first year. We're up to \$1.72 or \$1.73 million on Hill bill...

ASSEMBLYMAN COSTA: And all of that goes for deer management?

MR. MANSFIELD: That's earmarked specifically. That's above and beyond the previously budgeted items. We have other

activities that were funded by previously identified budgets. That's supplemental, earmarked only for deer work, the implemented, approved deer plans, \$1.78 million this year.

MR. BONTADELLI: I'm also going to note that, in terms of service to the public, some of the suggestions that we got from Mr. Condit yesterday relative to improving our draw, making it more understandable to the public, and eventually getting it automated, will also help, we hope, to alleviate some of the concerns. This publication that we presented, "Tracks", this is the first year that it has been available. We, frankly, probably have not done as good a job of informing people what it is we are doing and why, and that's the reason these deer plans which came out last year, when we finalized these, last year and the year before, these were now finalized for the entire state and are being distributed. We held meetings on these, and there are periodic updates on these with local meetings. We're also beginning to develop programs to encourage voluntary cooperation by sportsmen's groups and others to help us get better use of our habitat improvement programs.

CHAIRMAN CONDIT: I think, you know, those kind of programs, those kind of publications, are very important. The sportsmen in California often feel that they're taken, number one, for granted, and that their monies that they spend to maintain the resources in California are not being properly spent, and it's that kind of publication..., you know as I do, that the government tends to be this kind of amorphous object out there that people often don't feel is responding to their needs,

and the "Tracks" publication that have reviewed here today and the other program that you..., more of that kind of information needs to get out. You need to incorporate more of the sporting public into your activities because it's only then are you going to get not only a better dialogue but a better understanding so that they can determine, I think, more accurately whether or not those monies being spent are being spent wisely, and they, in turn, can make recommendations to us as well, and to you as the Department. I would encourage more of that.

Any other questions or comments?

ASSEMBLYMAN COSTA: Mr. Chairman, I just may have been out of the room when this was talked about. Did you talk at all about the recent fires, and did they have impact on the deerherds. If you have...

CHAIRMAN CONDIT: That's a good point. No it has not. No, sir, that was not discussed.

MR. MANSFIELD: We did not specifically address that. The recent fires..., I think our field personnel are involved right now with the Department of Forestry, U.S. Forest Service individuals. We're attempting to assess, exactly, the magnitude. In some cases, areas that we have planned prescribed burns obviously no longer need prescribed burning, so we're redirecting those funds immediately to other worthwhile projects. Mr. Curtis, for example, works closely with those agencies on that issue in the northern part of the state. Maybe Banky could provide some counsel on the kinds of thing we're doing relative to the fires.

MR. CURTIS: There's two basic things we're working on. We've had, and in the Klamath National Forest, over 280,000 acres burned, and some of that has been range that is very critical to deer. Now, in some circumstances that could be extremely beneficial to deer. Not immediately because of the burn, but on the long term impact of removing some of the trees, creating some more vegetation, and some of those impact are really going to be beneficial to deer.

CHAIRMAN CONDIT: Over the long term?

MR. CURTIS: Over the long term. Looking how to deal with those, how to deal with increased deer populations there, and in some circumstances some real critical deer summer ranges have burned and we may not have the winter ranges to support them, so we'll have to divert some Hill bill dollars up there to improve the quality of the winter ranges to support the deer that are going to be produced on the summer ranges. We're working very closely with the Forest Service to develop short-term ways to benefit that. With some of the seeding programs, we have worked up there and instead of planting annual rye, as they have normally done in the past, which has little benefit to deer in circumstances, they are planting more clover, more vetches, more native grasses that are beneficial to deer.

ASSEMBLYMAN COSTA: Are you contracting with the California Conservation Corps for any of that kind of work?

MR. CURTIS: The California Conservation Corps is doing some work along that. Most of what is done is rehabilitation work with funds through the U.S. Forest Service and federal dollars.

ASSEMBLYMAN COSTA: You work in conjunction..., that wasn't mentioned here in your discussions, but you work in conjunction with the Forest Service on your management program?

MR. CURTIS: Right.

MR. BONTADELLI: Yes, sir, just briefly, you'll note that in a number of our deerherd management plans, the Forest Service and the Bureau of Land Management are joint signatories to our approved deerherd management plans, they, being the administrators of the federal land base. We're responsible for the species, if you will, animal populations, but in a lot of cases...

ASSEMBLYMAN COSTA: So you're all working off the same plan.

MR. BONTADELLI: You bet. We're trying to get mutual goals and objectives, yes, sir, to make sure they're realistic and fit with their programs.

ASSEMBLYMAN COSTA: Do you get any money from them as a result of that?

MR. BONTADELLI: As a matter of fact, I think there are a couple of points relative to the forest lands that I think are important, that since you raise the issue, number one, we attempt to insure that through the forest planning process that's now under way that, particularly in those areas where we have a mutually agreed to deerherd plan such as this one, that their prescribed cutting practices are consistent, by making sure we point out any inconsistencies that may appear between their planning documents and those that they've agreed to with us. The

other thing is that we have been spending somewhere between \$650,000 and a million dollars a year on what we call CSAC funds, from the environmental license plate fund, for the last three years, to do actually habitat improvement projects on federal lands. I believe, if you look at the expenditures of the state on federal properties and the combined expenditures on our parts through SITESAC, environmental license plate, stream rehabilitation, Hill bill monies, you will find that the State of California is spending on the federal lands, both the BLM and Forest Service lands, more than is spent in the other sixteen western states combined by either one of those agencies. So we think we are beginning to make some significant gains by showing that we have dollars to spend on federal lands, that, therefore, will help shape their management practices for the benefit of wildlife.

ASSEMBLYMAN COSTA: Does that mean we're doing well with the Department of Forestry, or not?

MR. BONTADELLI: Better than we were.

ASSEMBLYMAN COSTA: Better than we were.

MR. CURTIS: And, also, in addition, after these fires, we made our biologists available to help assess some of the damage. For example, in some of the areas, a significant portion of the spotted owl territory was burned. We've made our biologist available to work with the Forest Service, help document the impact of the fires on those specific areas.

CHAIRMAN CONDIT: Do you have any count? Has there been a reduction of deer in certain areas because of the fires?

MR. MANSFIELD: Basically, the deer are mobile enough that they've moved out of the way. One of the concerns is that some of the winter ranges have burned, and we're looking at some of that and until we monitor those very closely as to what happened. In some of the east side fires, for example, in Lassen County, the Milford fire, some very critical winter range has burned. In that east side, more deserty, drier country, that doesn't come back as rapidly, and that will probably have a long-term detrimental impact on deer. We've spent a lot of our Hill bill dollars on some of our land and some BLM land to try to rehabilitate some land that burned several years ago in the Bass Hill area, and we've put a lot of dollars there because that range is critical for the survival of those deerherds, as well.

CHAIRMAN CONDIT: One additional question before you leave, and you may have talked about this: the bluetongue disease, has someone discussed that and the impact of that?

MR. MANSFIELD: Mr. Condit, we touched on it briefly, and we clearly recognize that in certain locales diseases, and certainly bluetongue, has been around for a long time. As a matter of fact we've spent money over a period of years monitoring the bluetongue situation primarily in deer but also in Tule elk and antelope and in bighorn sheep. We're currently earmarking dollars from our bighorn sheep program, our deer program, and to specific research. We're doing that with a working group through the Department of Food and Agriculture and the University of California at Davis Vet School. We've got, for example, a specific deer Hill bill project funded this year, it's

for \$18,000, specifically to do bluetongue related research. That, by no means, is the total amount of dollars that we're spending, but we've identified that as a serious problem, we're monitoring it, we need the public's assistance in terms of reporting suspicious deer losses and things of that nature, but we are targeting research on that.

CHAIRMAN CONDIT: Is everything that we're doing going to be done in the future? Have we done anything in the past, the money that we've spent in the past, has it been worthwhile in terms of curtailing the...?

MR. MANSFIELD: Yes, sir, I believe it has. The thing is, some people say, "Well, could we interject a lot more money into that system right now and do something more on the bluetongue issue?" The question is, one, that we've looked at; we've looked at it hard. We're looking into some leading edge research. It turns out it's a complicated issue. Bluetongue is a viral disease that's transmitted by insect vectors, insects biting insects. We thought we had a few leads in terms of particular gnat that seemed to carry it. It turns out now that there are other, ticks, for example, can transmit it. We hope to target on breaking that insect vector link. Those gnats breed around water supplies. In short water years we felt we could deal with some of those water supplies, but we're finding out now that ticks can transmit it. That's not tied to water sources. We're trying to look at monitoring our deer, elk, antelope, potentially carriers. In some cases, could livestock be carriers? We're really trying to attack that problem putting the

emphasis in the areas where we stand to produce some results, like I say, U.C. Davis is assisting us, Food and Ag, and our...

MR. BONTADELLI: And veterinary medical staff as well. As a matter of fact, Mr. Chairman, I have here a briefing paper that I think will give you a good background. I think one of the things that's important to note is that bluetongue is merely now what has become something that used to be called by a lot of other names. It has now been correctly identified as bluetongue. It was previously dealt with as a variety of other issues, including hoof rot and some other things that were diagnosed as such, and I'll be glad to enter this into the records so that you have it.

CHAIRMAN CONDIT: Thank you. That concludes my questions on this section.

ASSEMBLYMAN COSTA: All right. We have two other gentlemen here, John Gaither from Lassen County and we have Ted Riggs. Is Ted Riggs here? Ted Riggs is not here, so John, you're batting clean-up.

You were sworn in yesterday, so know that you're testifying under oath, so you want to make sure that everything you say is accurate to the best of your knowledge. We'll give you an opportunity to correct them if you misspoke, but..., that's the kind of folks we are around here.

MR. GAITHER: Thank you, Mr. Chairman. In this testimony, I talked three times, this is the third time. I had a brief that I had made out on deerherd management in which I had indicated that I would suggest more local input and local control

over programs which affect us. One of the things that I've touched on briefly, and has been touched on, is the economic impact that it's had on our county. Lassen County is not a big county, moneywise, but landwise, and the Fish and Game management that I will address has to do with Lassen County. You've got a brief on the...

ASSEMBLYMAN COSTA: Did they do a similar program, because we want to move on...

MR. GAITHER: Not since I've been on the board.

ASSEMBLYMAN COSTA: Okay, so the Department, do we have a similar proposal with Lassen County as you have with Butte?

Identify yourself.

MR. CURTIS: Yeah, this is Banky Curtis again. We don't have one quite as elaborate. We've been working with the county over a number of years. We have introduced to them our deerherd plan, identified our critical ranges, our migration corridors, and the summer ranges that are essential within Butte County. We're in the process now of working with the board to try to establish a wildlife resources recreational element to the general plan and put that in as an amendment. We're working in that direction. We probably aren't as far along as we were in Butte County, but we've taken the basic steps to get that started.

ASSEMBLYMAN COSTA: All right. We want to get your perspective of the overall deer management, John, and that's...

MR. GAITHER: I understand that, and...

ASSEMBLYMAN COSTA: We've already dealt with the private lands, and that is...

MR. GAITHER: Right. I understand that, and as I said earlier...

ASSEMBLYMAN COSTA: You don't want us to take your authority away on the antlerless hunt, do you?

MR. GAITHER: Well, as a matter of fact, I would like us to be able to have approval on it. That's the only hammer we've got left. We have no other control over what Fish and Game does in our county.

ASSEMBLYMAN COSTA: No, I understand that. I'm just talking about from a management of deerherd...

MR. GAITHER: I understand that. No, what I was going to say is that I have here before me all of the last three plans that were done by Fish and Game of Lassen county herds. Okay, this is the Doyle herd, the East Lassen herd, and the West Lassen herd.

ASSEMBLYMAN COSTA: You've got three herds.

MR. GAITHER: There's more than that, but this is the major herds. These are the studies that I've been able to come up with. I've read them all. I'm not a biologist, but there is tremendous inconsistencies in what the Department is doing and what their studies say. I believe...

ASSEMBLYMAN COSTA: What's the latest report that you've got in front of you?

MR. GAITHER: 1984, West Lassen deerherd. This deerherd is that portion of Lassen County up above Eagle Lake, up into

Shasta County. This herd is a very healthy herd. It's been a healthy herd for a long time. Fish and Game established quotas on that zone.

ASSEMBLYMAN COSTA: Does it have problems with habitat?

MR. GAITHER: No. Not the kind of problems that we've had before. The Lassen County just this...

ASSEMBLYMAN COSTA: You know, like we see there in Butte?

MR. GAITHER: No. This year, if you had a Lassen County map from Susanville north, we just rezoned all of that upper county except for areas that are previously zoned city, town centers, other small areas, as Upland conservation 80-acre minimum. We want to protect that habitat, okay? We have other parts of that county that need to be rezoned, the lower part of the county. I believe there are now...

ASSEMBLYMAN COSTA: Habitat's not a problem, so what are the inconsistencies?

MR. GAITHER: What I'm getting at is their quota system...

ASSEMBLYMAN COSTA: Are you saying it is or it isn't a problem?

MR. GAITHER: It is a problem in places. What I'm suggesting is that the deerherds fluctuate, naturally. They go up and down, okay, just like a lot of other animals, due to Mother Nature.

ASSEMBLYMAN COSTA: Like the stockmarket.

MR. GAITHER: Just like the stockmarket, okay. They have good years and bad years. The Doyle herd is probably one of the most studied herds in the state because it's a bi-county herd, a bi-state herd. It goes into Nevada. They've got statistics on this herd that go back into the forties. The population, the buck-doe ratio fluctuates. I read a Fish and Game document some years ago that said there's more deer in California today than there was when Columbus discovered America. My response was, "Who did the headcount."

ASSEMBLYMAN COSTA: Now or then?

MR. GAITHER: Then. It's a question now, because if you keep in mind, management's got to be a total thing. The X4 deerherd...

ASSEMBLYMAN COSTA: There's estimated to be how many deer in the...?

MR. GAITHER: I haven't got their latest numbers. They had a little sheet up here with their latest numbers.

ASSEMBLYMAN COSTA: They sold 3,000 tags there. They harvest 693 bucks. They had, at fourteen bucks per fifteen doe ratio, is that it?

What's the buck-doe ratio. Fourteen to fifteen is what it looks like.

MR. GAITHER: Okay, in 1978...

ASSEMBLYMAN COSTA: I'm reading that...

MR. GAITHER: Okay. In 1978, that buck-doe ration was thirty-two bucks per hundred does. In 1979, it was twenty-five. They went into a quota system, I believe, it was in 81 of 82.

What's happened is that the ratios have declined, not because of anything Fish and Game has or hasn't done, that's natural, it goes up and down. Their recommendations, their herd goals, are ridiculous. They're not possible because Mother Nature doesn't work that way. Another thing is that they want high buck-doe ratios; twenty to twenty-five bucks per hundred does. It only takes five bucks to service a herd, and I'm sure the women can appreciate the fact that you only get pregnant once, so the excess bucks that...

ASSEMBLYMAN COSTA: Not necessarily true.

MR. GAITHER: One at a time, at a time. I should have clarified that. They can only get pregnant once. What I'm suggesting is that there are studies done, and in my testimony I gave you people an excerpt from the Doyle herd, which states..., this was in 1963 that an examination of 65 road kills shows that nine bucks per hundred does is enough to impregnate 94% of the does, saying that's an adequate buck-doe ratio, okay?

If you increase the number of bucks beyond that you do two things: you increase hunter success, you make better hunting; you also impact fawn survival because during the winter months there's only so much food out there, a hard winter, and the big buck gets the most food. A 250 pound buck is going to eat much more food than a forty pound yearling, and they survive. The problem with our deerherds, I don't care what Fish and Game is telling you people or anybody else, is not the buck-doe ratios, it's buck-fawn ratio. It's fawn survival. They come out of the forest and they go into that desert with one and two

fawns, and they come out of there with one and zero. Predators are taking a lot of them. Habitat is a problem, but it's not the total problem.

ASSEMBLYMAN COSTA: So, what are you suggesting the Department do?

MR. GAITHER: What I'm suggesting the Department do is work with the local people. When you have a biologist that comes into an area, and they have a lot of facts and they have a lot of information, and they say, "This is what needs to be done," and you have somebody that's ranched and lived in that area all of their life and they say, "Hey, you're crazy. It's not going to work." Example: we'll take Bass Hill. The official count was two to three thousand deer on that hill. I've talked to everybody that lives around that hill, that's had anything to do with it. They said there's not that many deer. There's a thousand at best. They went in and had a 200 doe kill with a doe hunt. They've decimated that herd.

ASSEMBLYMAN COSTA: You guys control that, though, don't you?

MR. GAITHER: Well, the board approved it, though. Fish and Game pushed it. I wasn't on the board at the time or I would have screamed.

ASSEMBLYMAN COSTA: Now hold on a second. I want to get this clear right here.

MR. GAITHER: I hear you. I hear what you're saying. But what I'm saying is that the information that came out was that the deer were going to starve, and they didn't. They didn't starve, it was a mild winter.

ASSEMBLYMAN COSTA: It could be the reason they didn't starve was because they killed 200 does.

MR. GAITHER: I think now, if they go out there and take their county, they're going to find out that herd's in trouble. What you have to keep in mind, in my testimony, one of the things that's prevalent in every one of their studies, every one, and I'll quote; it says, "The magnitude of predation mortality of the predation mortality factor is not known for the East Lassen herd." It's not known for the west Lassen herd, it's not known for the deerherd in Doyle, it's probably not known for any of them.

ASSEMBLYMAN COSTA: Was that a 1984? Maybe they know it now.

MR. GAITHER: Their biologist up there said they don't know it.

ASSEMBLYMAN COSTA: Maybe they haven't found out yet?

MR. CURTIS: You're talking about the level of predation?

ASSEMBLYMAN COSTA: Yeah.

MR. CURTIS: What we've done for most of these herds is we've developed what we call a computer simulation model. By that we're able to track what goes on with the deerherd. We're able to look at various methods of changing things that go with the deer that we've been able to identify a portion of the herd that could be attributed to predation. It's very difficult to get the coyotes to come in line and count how many deer they've killed. So, it's a very difficult thing.

ASSEMBLYMAN COSTA: Bring them in in deer taxis.

MR. CURTIS: But what we do know is that in most cases the mortality we're talking about isn't due to predation. There are some other factors that are involved. For example, in a lot of the ranges that he's talking about, some of the fawning cover has been degraded by intensive livestock use in some areas where the fawns are produced. The fawn survival is a problem. Probably one thing that should be noted, that immediately after the antlerless kill that he talked about, what we had was an increase in fawn survival in that herd. The herd adjacent to it didn't increase, so what we did have as a result of the antlerless harvest that we had is an increase in number produced that survived through that winter and the fawns that were produced the next year.

ASSEMBLYMAN COSTA: So you're saying that the Department needs to do a better job of coordinating with their biologist with the local entities, not only the county but the farmers?

MR. GAITHER: Right. What I might also suggest, sir, is that the 200 does that they killed in that hunt would have produced 350 fawns. Okay, so the fawn survival for those that were left was a little better because there was more food left for them, but in fact, they took out of that deerherd for the next year, 350 fawns of which half of them are bucks and half of them are does. It works both ways. And if you talk to the cattlemen in the area as to how they determine their herds, and how they weed their herds out, you don't do it that way. You just don't go in and start shooting the animals indiscriminately.

I, at the time, worked for the Highway Patrol and I validated a lot of the does that came out of that area. They were wet does. They had been nursing. So what we did was, we took a lot of the provider does out of that herd. What happens is, in a doe hunt, and in a doe hunt that's all you're shooting. It's not an antlerless hunt, it's a doe hunt. A hunter goes out there and he jumps three deer. The biggest one is the one you shoot, and they go over and find out that that big deer they shot was an eighty pound doe with two four pound yearlings running with it. They've killed their mother. The Fish and Game people say that the deer are fawned in the springtime and by fall that they're weaned. That's poppycock. You talk to the farmers out there, and they're fawning until August in these areas, and so what happens is that you do a damage to the herd. Now, there have been a lot of doe hunts in California. As a matter of fact, in my testimony I happen to have a statewide deer take figure that's from 1927 until 1975. This has antlerless deer take, the percent of hunter success, and the buck take, and if you'll look at that you'll find that the deer take and the hunter success began to decline when they began doe hunts. Now, I realize this is not conclusive evidence, but in 1956 they took 40,000 does out of the herds in California, and in successive years the deerherds have declined. I'm not saying that's the only reason. I'm saying it's a factor.

What happened in Lassen County..., we talk about management.

ASSEMBLYMAN COSTA: Your recommendations, then, and I want you to kind of...

MR. GAITHER: Yeah, I'm trying to hurry here. What I'm suggesting, sir, is that when they did this deerherd plan in 1976, the Department had already decided to do the private lands management. There was no need in X4 to go to a heavy quota system. There was no need in X6 to go to a heavy quota system. In X5B, in the desert, there was a need to control the hunters, and what I'm suggesting is that the quota system that we have in place, at least in Lassen County, and I would be willing to bet in some of the other counties, was to promote private lands management, not to promote the deerherd. When you have a herd plan that says that we want a goal of 25 bucks per 100 does, and you have a buck count of 32 per 100, you've far exceeded that. Why go to a quota system?

ASSEMBLYMAN COSTA: Let me suggest something to you, and I don't pretend to have any expertise in this area, but the figures may bear out that kind of a conclusion but I'm not so sure that the public policy that's been coming out of here was planned with that in mind. I'll tell you why. The private lands management began back when Hallett created her legislation to initiate the first private projects were done to try to fit a certain need, that was to try to see whether or not we could use some private resources and to try to deal with some of the problems that the cattlemen had, and it was kind of a combination of ideas put together and looked at what had worked in some other states. The Hill legislation that was passed in, I believe, 1983, it was, or a bit later, was really an attempt to say, "we've had some of these peaks and valleys that you described,

and we really need to try to begin pulling these things together."

Now, just as you've stated, there are a number of other factors that contribute to all of this, but one of my frustrations has been that the right and the left hands haven't been coordinated as well as I would hope they would be, and without a long-range deer management policy in effect, and that's what I was trying to drive at with the Director in the earlier comments that we made when we talked about with the deer management program, I think that the Department is beginning to bring that all together. These programs, separate as they may have been, were a response to different needs, and not necessarily dealt with to try to duck that. We're trying to make them dovetail now.

MR. GAITHER: Okay. What I'm suggesting..., in earlier comments it was mentioned that the Department...

ASSEMBLYMAN COSTA: I guess what I'm saying is that no one really has it figured out that well.

MR. GAITHER: Okay.

ASSEMBLYMAN COSTA: These things, you know, they're different motivations for why they occur and happen. What we need to try to do is to accept what's taking place now and figure out how to do it better.

MR. GAITHER: I understand that, and what I'm saying is that what they've done, in Lassen County, and I don't know about the others, what's happened in Lassen County...

ASSEMBLYMAN COSTA: How can we do it better?

MR. GAITHER: How can you do it better? Number one, you get local people involved. And you take that local input and you use it. You don't put it in the round file, as has been done in the past. I've talked to people that were involved for many years with Fish and Game and the problem is that the concerns expressed by local people are not..., do not fit, and as I've pointed out, and I didn't realize it until I believe it was brought up in testimony here, is that the private lands management concept originally began in about 1977 as a trial -- 1979, as a trial, was that in order for the private lands management thing to work you have to limit the supply of deer tags. I mean, I can remember somebody having a psychic business and was arrested for prostitution. I don't care what you call it. it was the same thing. What they've done is they've limited the supply of available tags. They have increased the value of the East Lassen deerherd from \$20 per tag per deer up to \$2,000. The biologists and the people from Fish and Game in meetings in Lassen County have indicated they want these people to make more money; they want this private land...

ASSEMBLYMAN COSTA: But you're talking about the private lands management...

MR. GAITHER: No, what I'm saying, though, is that's part of deerherd management. What happened was, when they went to the quota system, they began to shift hunters, and in their studies they refer to the fact that pressure in certain areas increased, and it increased because they forced the increase. When they took the hunters out of X5B they went to X6, etc. What

I'm saying is that those deerherds up there and Lassen County can take more hunters than they're putting in there.

We want more hunters to come in. We don't want it to go back to behind every rock. What is going to happen, and what is happening, is that a tremendous economic impact in our county, okay?, as well as the morality and the development...

ASSEMBLYMAN COSTA: Okay, we know what the negatives are. I think you've made your point. Is there anything else you'd like to include?

MR. GAITHER: One of the things I've indicated, on antlerless hunts, the Department of Fish and Game had already tried to run an amendment through this last spring on those hunts, CSAC was notified and we were able to, hopefully, persuade them through calling down here to postpone that, because...

ASSEMBLYMAN COSTA: I believe the Director has indicated that he intends to work with both CSAC this fall at the Rural County Supervisors Association and that will be my part to encourage you to try to take an active part with CSAC or Rural Counties, whichever you belong to, or both, whether their resources committee or whatever, however CSAC is handling it, to sit down and see if we can coordinate some efforts between your concerns and Fish and Game's. We can create a better communication that I think we all agree is necessary if we're going to make this work.

Okay?

MR. GAITHER: Okay.

ASSEMBLYMAN COSTA: Thank you very much. I appreciate your time and your comments.

MR. GAITHER: It's all right. That's what we get paid for, huh? I appreciate your listening, and my concern is the deer.

I moved to Lassen Count to hunt, and now I've got to go to Modoc County because that's the only place I can hunt, but one of the things I want you people to understand is that in the seven or eight years that we've had the quota system in X5B, the deerherd has not increased. Even Fish and Game admits that, and there's no people out there. There's only about 30 or 40 people that live out there, maybe 100 at the tops. So...

ASSEMBLYMAN COSTA: Maybe I can get out there one of these days and go visit you.

MR. GAITHER: Why don't you come up?

ASSEMBLYMAN COSTA: I'd like to get out and see that area.

MR. GAITHER: Fine. Thank you.

ASSEMBLYMAN COSTA: Thank you.

All right, thank you very much. Mr. Palmer, did you want to talk on deerherds? That'd be fine. You've been patiently waiting a day and a half now, over a day and a half.

You get to be sworn in so that everything you tell us will be ensured to be the truth. If you make any mistakes you can come back and correct them. Mark Palmer from the Sierra Club.

MR. MOGER: Mr. Palmer, would you raise your right hand? Do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. MARK PALMER: I do.

MR. MOGER: Would you please be seated and state your full name into the microphone for the record, please?

MR. PALMER: Yes, Mr. Moger, my name is Mark J. Palmer, P-A-L-M-E-R, and I'm representing the Sierra Club.

Thank you, Mr. Chairman, for the time to talk from, perhaps, a little bit different perspective than we've heard, and I thank you for the hearings that we've had for the last two days. I think they've been interesting. There's been a lot of discussion about some important issues, and I think it's been a useful discussion. I think some direct problems have been uncovered, and I think there's some obvious efforts by the Department of Fish and Game to make a lot of progress in a lot of areas, which is very gratifying to me, from a year of seeing the problem and whatnot. It's been a good round of discussion, and I think the Department should be congratulated, I think, for doing a good job in discussing these things.

I wonder if we might raise our sights a little bit. We've been talking here about what the Department of Fish and Game has been doing, what the Department of Fish and Game should be doing, and I'm wondering about looking, perhaps, beyond to five years.

ASSEMBLYMAN COSTA: Good. I'm anxious to have our sights risen at this hour.

MR. PALMER: We can raise our sights at this point.

ASSEMBLYMAN COSTA: Please do that.

MR. PALMER: Antiquated is a word that came out in the earlier discussions of the Department's activities, and I think that's an interesting statement, one that keeps revolving around in my head of some of the problems we've seen in the past. I think the Department is making tremendous progress on these things.

You've heard a lot from the user groups. You've heard from the consumers, the sport hunters, the commercial fishermen, the sports fishermen. I always like to bring up these statistics, and whenever I do Mr. Upholt always gets upset that I'm going to be saying something nasty, so from the outset I'm not suggesting with these figures that we do away with sport hunting or we take away funds or that we do away with commercial fishing.

ASSEMBLYMAN COSTA: Mark, maybe I missed it. Should your comments, for the record purposes, are going to be related to the deer area or all the areas we've covered, or...?

MR. PALMER: Well, a little bit or each, but mostly to the deerherd management aspect. Trying to look at the deerherd management, if you will, as a microcosm for other things that the Department of Fish and Game ought to be doing in other areas as well as deerherd management.

In the case of sport hunters in 1985, by my estimation, about 1.9% of the people of the State of California bought hunting licenses. Sport fishermen, last I looked, which was a while back, was somewhere in the range of 7%, and the figures are not important so much as that there's 90% of the public that we haven't talked about during these hearings, and I'd like to bring them in. What about the, if you will, nonconsuming public, the public that is out there and the Department of Fish and Game is doing for these people.

Well, the Department of Fish and Game is doing a lot more than they were in the last ten years. They've tremendously increased non-game programs, environmental services, endangered species. I think Mr. Bontadelli indicated, about 20% of the budget for non-game programs, which is quite a jump from in the past, just a few years ago, it would have been perhaps 5%, perhaps even less beyond that. Yet, we still have these problems about endangered species. For example, the Department's recent report on endangered species, "At the Crossroads," suggested that virtually two-thirds of the species on the program are either holding their own or declining, a very serious problem.

Clearly, the Department of Fish and Game needs more resources to function. I think we've talked about the need for more wardens, more personnel, and more funding, more equipment, how to pay. It seems to me that the answers that have come back to you during this series of hearings has been that we need to look more at Section 711, if only the commercial fishermen paid more as was their due in 711, or if only the sport hunters or

sport fishermen, or whoever, paid more money, the non-game, on Section 711.

ASSEMBLYMAN COSTA: What do you think?

MR. PALMER: I have a radical idea. I'm wondering if we shouldn't do away with Section 711, and do away with the slavish accounting for specific user groups for specific programs.

ASSEMBLYMAN COSTA: Where is the gentleman from the press? I'd like him back here. That's an interesting suggestion. Mr. Kossel, you ought to be here so you can hear this suggestion.

MR. PALMER: I've kind of changed 180 degrees in my suggestions on this, and when Section 711 was first debated, back in the 1970's, I was opposed to it because I felt at that time sport hunters should be paying for public sorts of things and sport fishermen should be paying for public sorts of things. They are taking a public resource that belongs to the people of the State of California and therefore the money should go and benefit the people.

ASSEMBLYMAN COSTA: That's interesting, and the question there, as I read, surveying wardens and department biologists and those, the question was asked who are the beneficiaries of the various programs that they attempt to implement. It seemed almost, certainly a majority, I hesitate to say overwhelmingly, but it was certainly a majority, of those questioned responded that non-consumptive user is the overwhelming beneficiary of the various programs that they attempt to implement, some more successfully than others, obviously.

MR. PALMER: That's right, and I think as I mentioned, I've gone kind of 180 degrees on this issue. Before I thought that it should go to the public, now I'm suggesting that, perhaps, we need public funds because of the..., I don't think the consumer groups for long can continue to support these programs. I really think if you see some of the problems we're having in just one county with land use decisions and whatnot, and of course, that program benefits all the public. The private lands management program benefits all the public, because there are non-game species on those lands. There are little raccoons and butterflies and what have you that are being benefitted from these habitat management programs, and as we move into the habitat management efforts then, indeed, we will see better benefits for the whole public, not just those who are...

ASSEMBLYMAN COSTA: Well, the attempts in programs such as that in Butte County that implements a whole host of non-game species benefit.

MR. PALMER: Right. Exactly.

ASSEMBLYMAN COSTA: How would you provide that funding?

MR. PALMER: Well, that's the next step, and I don't have any easy sorts of answer to that. Obviously, it would be nice if we could go to the General Fund like anybody else. I recognize your concern there, and I think it's a valid concern, that we won't compete terribly well there in the General Fund.

ASSEMBLYMAN COSTA: Yeah, I think we'd lose there. I just think that the..., there's always been a protection in the designation of special funds. From time to time, when we had the

problems with the unfunded, necessarily in the Department a couple of years ago, we were able to get General Fund monies, but those tend to be kind of one time only and you can't count on them on a year to year basis.

MR. PALMER: That's right, and I think there may be some sources of additional funds out there from the general public, and I guess that's kind of the gist of my approach, which is can we look at the general public as a source of funding for these programs through better communication with the public and through a better development of non-game programs, and game programs, that benefit the general public out there.

Financing, in other words, for the department has to come, as you mentioned, with dedicated fees and whatnot, and there may be some sorts of taxes we can come up with.

ASSEMBLYMAN COSTA: Are you familiar with the federal Dingle Johnson tax?

MR. PALMER: Which one is that?

ASSEMBLYMAN COSTA: It's on the Malacca fishing reel or backpack and all that kind of stuff, that sort of thing. At least you get a broader user group.

MR. PALMER: Right, and binoculars, and bird feed, and various other ideas have come out. That hasn't fared very well with manufacturers, I'm afraid. Congress has a difficulty with getting those through. That's one area to go and that kind of taxation is a possibility. There's also talk about the tobacco tax, and there's proposals for an initiative for that. Again, any other ideas that come up, we'd be interested in working with

all the interest groups, because I think that's the bottom line. We've seen this was mentioned by one person, a certain amount of finger-pointing at people. We need a broader bucket, I think, of money, then perhaps there won't be quite as much scrambling for the bits of it.

That's basically the gist of my comments. I think the Sierra Club has been very supportive of some of the efforts of the Department of Fish and Game, particularly habitat protection and preservation, and we look forward to working with them in the future, and again, I thank you for this opportunity. Perhaps, one thought might be to look at some future discussions, future hearings, whatnot, with the committee that would address some of these...

ASSEMBLYMAN COSTA: We would certainly be interested in that, and we appreciate your comments, Mark. You might want to repeat, just briefly, Mr. Castle just walked back into the room, but I want him to hear what the Sierra Club represented when it came to the discussion of who benefits from non-consumptive uses versus the consumptive users, those who pay user fees, the almost radical proposal that Mr. Palmer suggested.

MR. PALMER: Well, the proposal again, for Mr. Castle's benefit, is the concern about Section 711 and that a lot of people have suggested adhering to Section 711 is the way out of the current financial difficulties of the Department. I'm wondering if doing away with Section 711 and the slavish trying to account for who benefits from a particular wildlife program, and instead have recognition that everybody, in fact, in the long

run will benefit from these wildlife programs, and the issue is getting more funds not which particular user groups or nonuser groups, for that matter benefits, that the non-consumptive public obviously is benefitting certainly from the deer management programs and from various other habitat efforts by the Department of Fish and Game: the private lands management program benefits other species besides deer species.

ASSEMBLYMAN COSTA: No, I appreciate that. I don't know if..., because my readings at the surveys were not comprehensive, but the surveys that I read and I'll reference again that he read over the weekend that most of the biologists and wardens indicated when questioned who were the beneficiaries of the various programs that the Department tried to implement that the non-consumptive users statewide were in the view of the biologists and wardens, the overwhelming beneficiaries of the programs and certainly a majority of those surveyed tend to respond in that fashion. And that follows your suggestion as to maybe eliminating Section 7.11. I don't know that that's realistic. But, I think the point that you make is that to the degree that we really want to manage our resources in the best possible light, we have to enlarge the resource base. We can't expect simply the user fees alone whether they be sports or commercial to fund all the programs. And that leaves you with the dilemma I expressed earlier that we face in Ways and Means and some of the other committees around here that when some of the members who are not as concerned with some of the resource programs say, you know, "Look, if the user fees can't support

them on their own, then scale back the programs; but let's not take general funds for that." Your idea to attempt to find new means to, as they've done on the federal level, to widen the pie, especially in the area of non-consumptive users, I think would offer us potential to do more in the area of resource management.

MR. PALMER: We've done that a bit with the endangered species tax check off. That's a good example of where the public has helped out quite a bit for endangered species.

ASSEMBLYMAN COSTA: All right, well...we appreciate your suggestions. We'll look forward to continuing to work with you and members of the Sierra Club in the next session and we'll go from there.

MR. PALMER: Thank you.

ASSEMBLYMAN COSTA: Thank you very much. O.K., we're moving to the final area...the state operation of the fish hatcheries and I, Mr. Chairman, will be back in a minute.

CHAIRMAN CONDIT: You got it.

Did we have...I have a list here, was that Mr. Palmer? He's already been a...I have another one, a Mr. Ross. Did Mr...Rob, did you want to make your comment during this segment or...

MR. ROBERT ROSS: Mr. Chairman, whatever you wish. I think people signed up while you were writing. I'll be happy to wait.

CHAIRMAN CONDIT: Well, I have...the only ones I have on my list was Mr. Palmer and you. Is there someone else who signed up that I don't have their names?

MR. MOGER: I thought, perhaps, that Mr. Yeates had, but...I'll doublecheck.

CHAIRMAN CONDIT: Is there is a Luanna Multner here? Is that all you have? Oh. Jerry Conway? O.K. Mr. Ross, why don't we take you. You'll be the last one and unless you want to hear this hatchery...I mean you're welcome to.

MR. ROSS: Thank you. I'll come up.

CHAIRMAN CONDIT: You have not been sworn in. May we swear you in please?

MR. MOGER: Mr. Ross, do you solemnly swear or affirm that the testimony that you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. ROSS: I do.

MR. MOGER: Thank you. Now would you take a seat and speaking into the microphone give your full name.

MR. ROSS: Yes, my name is Robert E. Ross. I represent the California Seafood Institute. You know, I've never answered a question like that. I said, "I do"...it reminded me when I got married.

CHAIRMAN CONDIT: Is your mike on? Can everyone hear you? O.K.

MR. ROSS: Mr. Chairman, thank you for taking me. I know you've had a hectic couple of days and you spent a lot of time on some very important issues. What compels me to speak today is...some things were said yesterday, and I've been around this process a little more than ten years...and I've never seen

witnesses sworn in. I think it's a very good idea. I think, in fact, about ten years ago when I first got involved in this, I wish some people would have been sworn in.

CHAIRMAN CONDIT: I apologize to you. They cannot hear you in the back. Why don't you grab this middle microphone. You can stay where you are or move if you like and see if that one...yeah, that one seems to have more power.

MR. ROSS: The issue of swearing in witnesses, I think, is a good one. Yet, yesterday there was a speaker by the name of Kenneth Kikuda, who gave this committee some information relating to the increase or the lack of increases in commercial fishing licenses. Specifically, he said that fishing licenses for the commercial sector had not gone up but \$1 in a ten year period. And I have reason to believe that he knew that, in fact, there was a ten year increase just last year of some 25% over the \$40...it is now \$50. And, I'm just wondering if this type of thing...now that you know that type of thing...what the ramifications for that would be.

CHAIRMAN CONDIT: You got me. I'm sure that this committee will give the gentlemen an opportunity to correct himself, as we would all witnesses. You know, some of the witnesses came up...they had prepared statements. We asked them to paraphrase...they did that. I believe that there are some ramifications if someone deliberately lies to this committee. I'm not sure what they are, but we'll certainly check into that and we'll also give Mr. Kikuda the opportunity to correct his statement for the record if he acknowledges that he was in error.

If not, then we will...maybe you want to make some suggestion on...in answer to the question might be.

MR. MOGER: The obvious thing is until the records of the hearings are reviewed, we can't really make an evaluation. Any time after testimony is taken under oath, it's taken subject to the penalty of perjury. However, perjury is a willful misrepresentation of a material fact under investigation by the committee and we would need to examine the records to make sure that, in fact, that occurred before any appropriate action might be taken in that regard.

MR. ROSS: Mr. Chairman, thank you. It was just a question I had. I appreciate it.

CHAIRMAN CONDIT: Thank you for pointing that out. We will check the records and give Mr. Kikuda the opportunity to clarify that if that needs to be done. The reason we, and Mr. Costa may want to respond to this as well. I think that it was his suggestion that we swear in the witnesses. We wanted people to know the seriousness of this hearing and there had been a lot of accusations made. We thought we'd try to get to the bottom of it. People who make accusations and make statements, they ought to be able to back those up. And we thought at some point we may want to look at the records, the testimony and find out if people really did substantiate what they've been saying. They've been saying it privately. We hoped that some people would say it publicly. I appreciate your comments. I didn't mean to deviate away. I get...we have one last section and it shouldn't take us too long to go through this section, I hope. And this is a state

operation of fish hatcheries and Mr. Bontadelli, you can...we got...Mr. Yeates and whoever...why don't you introduce whatever staff you want to speak. And, if they have not been sworn in, we'd like to swear them in.

MR. BONTADELLI: We may not need all these people, but let's swear them all in quickly so we can have that out of the way in case there are questions. Would Bob Rawstron, Don Manzler, Ken Hashagen, and Almo Cordone from our Inland Fisheries Division to discuss hatcheries. And just for the record, as long as we are clarifying things from yesterday, I believe I gave you a number of areas that were 640 acres or greater. Those were the numbers for Lassen County and not statewide.

CHAIRMAN CONDIT: O.K. I'm glad you clarified the record. Somebody may be....challenging that.

MR. MOGER: The gentlemen who have not previously been sworn in.

CHAIRMAN CONDIT: I think Mr. Yeates is the only one that has been sworn in, right?

MR. MOGER: Mr. Yeates and Mr. Bontadelli have. I'll try and check the records as you state the...Would you each raise your right hand. Do each of you solemnly swear or affirm that the testimony you are about to give this committee is the truth, the whole truth, and nothing but the truth so help you.

COLLECTIVELY: We do.

MR. MOGER: For the record, we need to have each of you gentlemen state your name.

MR. ROBERT RAWSTRON: Robert Rawstron.

MR. DONALD MANZLER: Don Manzler.

MR. KEN HASHAGEN: Ken Hashagen

MR. ALMO CORDONE: Al Cordone.

CHAIRMAN CONDIT: Mr. Bontadelli, who would you like to start with? I know we have written statements here. If you feel it's necessary to read the statements...fine. If not, we'll put it in the records; and if you could paraphrase, we'd appreciate it.

MR. BONTADELLI: We'll have Ken Hashagen lead off. Then I believe the rest of the people here are for specific questions if they come up. I also note that if you have specific questions relative to the Irongate Hatchery or anything else, we have additional people here in the audience who may help out there.

CHAIRMAN CONDIT: O.K.

MR. HASHAGEN: Mr. Condit, committee members and staff, my name is Ken Hashagen. I am the coordinator for the department's statewide hatchery system. This afternoon I have been asked to give you a brief overview of California's hatchery system. It's difficult to talk about the system without talking about numbers. I'll attempt to not overwhelm you with data, but I am prepared to provide you with any additional information if you desire specifics. The department operates 21 hatcheries. We have one planting base, one quarantine station, and some rearing ponds on the Klamath River. Of the 21 hatcheries, one raises striped bass, one raises catfish, eleven raise trout, and there are eight salmon and steelhead hatcheries. Seven of the salmon and steelhead hatcheries are mitigation hatcheries built to

mitigate the loss of fish and upstream habitat through the construction of a dam. The hatchery system employees approximately 160 people. The cost to operate the system is approximately \$11 million a year. We rear approximately 53½ million fish each year broken down as 11½ catchable trout, 8 million fingerling trout, 32½ million salmon and steelhead, 300,000 striped bass, and 1.2 million catfish. Hatcheries have been in existence in California for over 100 years. As early biologists recognized the need to augment natural populations in an effort to provide angling opportunities for an ever-increasing angling population. Currently we sell approximately 2.3 million angling licenses each year. Raising three...53½ million fish is not easy. We have a very dedicated and professional hatchery staff, but not any farmer or rancher, we are constantly faced with factors which can or do effect the final production. And, I'd like to discuss some of those...some of the more important factors today. Starting with our facilities, the oldest hatchery still producing fish in California is the Mt. Shasta Hatchery in Northern California which was built in 1988 (Questioning date). Others were built as recently as the 1960's and 1970's. The department has an active and continuous modernization program designed to improve the survival of the fish or the efficiency of our manpower. Over the years, the department has replaced dirt ponds with concrete raceways. They have improved aeration and the water delivery systems. They have modernized spawning and incubation facilities and designed and built better and bigger trucks to transport fish to the lakes and streams throughout

California. In many years, the lack of money has limited our efforts but we do have an active program. Another factor that concerns us in the hatchery system are birds. Ranchers have coyotes, mountain lions and diseases to contend with. Farmers have insects and diseases and rodents. We in the hatchery have birds and occasionally some river otters. Fish-eating birds such as herons, egrets, gulls, cormorants, pelicans, crows, ravens cause significant losses at our hatcheries each year. Federal regulations limit the means we have to control these birds. As a result, large populations of some of these species have built up near our hatcheries. Annual losses statewide from bird predation average about 10 million fish a year. The most effective method of control, given the regulations that we have nowadays, is to build a bird exclosure around the entire hatchery. Eight of our, it says 24 here...facilities, 21 facilities have bird exclosures. Seven more are scheduled on the books right now; one in the current year and two each year for the next three years. Seven of our facilities are not currently experiencing significant losses. The bird exclosures depending on the size of the facility can run any place from \$15,000, if we use our own personnel, we've had some that have been as low as \$15,000. Others have gone as high as a quarter of a million dollars per installation. We have disease problems. These cause losses every year. There are about 30 different diseases in California periodically that can affect production. The department maintains a fish disease laboratory with a staff of eight to inspect fish and recommend treatments. In conjunction with the

private aquaculture industry, the department has categorized diseases by their severity and has established policies for disposing of these fish. Some diseased fish must be destroyed; others can only be planted in drainages where the disease is already present; and others may be treated and released as scheduled. The department meets or exceeds the established policies in their own hatcheries. Losses which are attributed to disease are increasing and will increase in the near future because of restrictions placed on the use of certain chemicals by the federal government or by regional water quality control boards. Malachite green is restricted by the federal government and formalin (spelling) is restricted in some areas of the state by the regional water quality control board. These are two of our most effective chemicals. We can anticipate higher losses until we have an effective replacement for these chemicals. Water quality and weather conditions can also affect hatchery operations. For example, in 1986 high turbid flows at our Warm Springs Hatchery near Healdsburg affected the viability of steelhead eggs and the survival of fry. The poor quality water resulted in a 46% loss of the 2 million eggs taken that year. Floods and droughts obviously such as the drought we are experiencing right now can affect hatchery operations and the survival of the fish released. We have mechanical problems periodically. Equipment failures are responsible for losses. Examples range from trucks that break down while planting fish to back-up generators that don't operate when power failures occur. There is a human element in hatcheries. Losses can also be

attributed to the human error, vandalism, and poaching. Human error includes the employee who fails to set a screen properly and the fish leave the hatchery or the employee who crowds fish in the ponds until they become stressed and die, or someone who might miscalculate chemical dosage and overtreat or undertreat a group of fish. Recently some employees of East Bay Municipal Utility District caused losses of fish at Mokelumne (spelling) River fish facility when they inadvertently shut off the wrong valve while working on their hydroelectric plant. Vandalism occurs in our hatcheries where people come in at night where we do not have security fences and turn off the water or take fish or put other chemicals in the water. As I said, they take adult root stock or or catchable size fish. That basically is a brief overview of a hatchery. The significant points I'd like to make is that California has an excellent hatchery system. It is recognized nationwide and they have an excellent professional staff. Each year we raise a crop of fish. We may have losses in some portion of the system, but they are offset by surpluses in other portions of the system. Our production goals are met each year and have been met each year. We need to continue to modernize our facilities and we need to look for better methods of controlling diseases and rearing fish. I'd be happy to respond to any questions you might have.

CHAIRMAN CONDIT: Thank you very much. I have to tell you that the only question I have is I'd like for someone just to explain...I have a series of questions, but I think it would be better if you just stay...to talk about the Irongate where you

lost 500,000 fingerlings. I think that's the figure. If you just tell me the incident, talk about it a little bit, that'll meet all of my concerns.

MR. BONTADELLI: I'd like to have one more person sworn in and this is Curt Hiser who actually runs the Irongate Hatchery and who could probably explain most quickly what happened and why.

CHAIRMAN CONDIT: O.K.

MR. MOGER: Do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth?

MR. CURTIS HISER: I do.

MR. MOGER: Thank you and would you please take a seat and would you spell your last name for us, Mr. Hiser.

MR. HISER: Curtis Hiser, that's H-i-s-e-r.

CHAIRMAN CONDIT: All I need, sir, is...why don't you just give me a background on how we lost 500,000 fish and how it happened and those kind of things. You can just speak in general terms. I think you can probably answer all the questions I have if you do that.

MR. HISER: All right. The factors surrounding the loss at Irongate Hatchery included (1) water temperatures in the Klamath River. When the fish were released on June 26 in the evening, that the water temperatures ran from 74° to 76°. The fish, some 9.3 million, some of those fish became stressed. When they did, they swam into the weed beds along side, you know, along the edges of the river. And in those weed beds, water

temperatures exceeded 80° with low dissolved oxygen content in the same areas. And, in the ten miles of river below the hatchery there were approximately 500,000 fish that did not survive.

CHAIRMAN CONDIT: Is that a...I mean, was that what you categorize as a human error or is that...what...how did we lose 500,000.

MR. BONTADELLI: I would consider that more water and weather...the drought and the warm waters...rather than human error. More of a climate, a climatic condition.

CHAIRMAN CONDIT: Is that something that happens frequently or is this a phenomenal experience to lose 500,000?

MR. HISER: Well, this is the first time Irongate has ever experienced any loss of fish.

CHAIRMAN CONDIT: How about any other hatchery? I mean, do we ever...do we lose that kind of numbers...

MR. BONTADELLI: No, not that kind of numbers. That's a very rare occurrence.

CHAIRMAN CONDIT: Was there any way to prevent that and if so, all I need to know is are we doing that?

MR. BONTADELLI: How many fish do we normally raise at Irongate?

MR. HISER: Over the last three years, we have raised approximately 12 million king salmon.

MR. BONTADELLI: The target hold is what...six?

MR. HISER: Six million.

MR. BONTADELLI: And we normally release about how many?

MR. HISER: Right at 12 million...between 10 and 12 million over three years.

MR. BONTADELLI: Ten and 12 million. O.K., the water temperature is normally about what when we release?

MR. HISER: Sixty-five, 65° to 68°.

MR. BONTADELLI: How many weeks in a row of rather hot weather prior to the release this year?

MR. HISER: Approximately three weeks in June.

MR. BONTADELLI: Why didn't we bring hot water into the hatchery to try to get them acclimated to it.

MR. HISER: That's good. Primarily because of the column nearest is in the upper reaches of the lake. I don't use the warm water out of Irongate Lake because to infect 9.3 million fish that I was about to release would heavy infestate column airs the one million king salmon that I am holding right now for release as yearlings and the steelhead and silver salmon would not be very good fish culture at all.

MR. BONTADELLI: So in other words, you didn't bring in other water because you didn't want to introduce a disease into the hatchery, stress the fish you were releasing, and also you wanted to protect the balance of the fish.

MR. HISER: That's right.

MR. BONTADELLI: An issue was raised relative to whether or not we could have taken water from the...at a different time because of repairs. What is the difference in water temperature between where you would take it at the times people said you should have and what actually occurred.

MR. HISER: There's very little difference in Irongate Reservoir, the Klamath River and the surface water, Irongate Reservoir, in the month of June. The Irongate Power Plant is a top drawer power plant. It skims off the surface. When it's in spill, or when the power plant itself is in operation, there is very little difference in the water temperature. At the time when I released the fish, the plant was down for repairs. It was down for repairs for in 1986, it was down for repairs in 1985. But we had had temperatures up to 108°. We set all kinds of heat records in the upper Klamath basin in 19...in the fall and winter...or the spring of 1987 in our area.

CHAIRMAN CONDIT: All right, you went through a series of questions and I think that covers it pretty well. What was the actual dollar amount of the 500,000?

MR. BONTADELLI: Anybody want to guess what a dollar amount would be on that.

CHAIRMAN CONDIT: That's right. I don't want anybody to guess, because you're all sworn in.

MR. BONTADELLI: We could provide it.

CHAIRMAN CONDIT: Sure, I know you can and you can do that at a later time. Mr. Yeates, did you want to make a statement.

MR. BILL YEATES: Is this one working? This is the on-again, off-again mike. Bill Yeates, representing the Pacific Coast Federation of Fishermen's Association.

CHAIRMAN CONDIT: Are you sworn in, Mr. Yeates?

MR. YEATES: I was sworn in yesterday.

CHAIRMAN CONDIT: Good.

MR. YEATES: And everything I had to say was the truth, the whole truth, and nothing but the truth.

CHAIRMAN CONDIT: I believe you always.

MR. YEATES: Nat Bingham's testimony included the discussion about the hatcheries. And, as you know, Chairman Costa, in many of our negotiations over fishery mitigation...one of our concerns about hatcheries is the fact that there are going to be inherent and inadvertent accidents like this so I think the Irongate example and others are simply further proof why we emphasize natural means of mitigation in many of the issues that we want to address. But I would like to point out that PCF of A's involvement of working with the department on especially the salmon and steelhead hatchery operations, and in fact PCF of A has been directly involved in salmon rearing programs on the Klamath River, Eel River, and the Little River in Humboldt County, having released some 5,000 salmon smelts over the past four years. And a lot of this is a direct result of the salmon stamp program that essentially before a salmon troller ever goes out and catches a fish, they have to buy a salmon permit, they have to have a vessel permit, they have to have a salmon stamp, which the members of our organization voted to increase so that we--I think--raise annually a million dollars a year essentially for an awful lot of salmon raising which we don't carve up into which is sport and which is commercial.

ASSEMBLYMAN COSTA: Too bad Mr. Castle isn't here to hear this.

MR. YEATES: Yeah, it was based on today's report...it is a shame. And, I think that Nat, Dave Danbaum, and many other people who work closely with Ken Hashagen with the department would echo essentially what he said at the end, that these are extremely dedicated professional employees of the department that work incredible hours and do incredible work and, as a result of that, even though I think our natural habitat is so drastically reduced when you consider--I can't remember what Roy Hill used to say but it's something like 600 miles left of some 30,000 miles of natural habitat that used to be there--we are able to maintain viable fisheries both sport and commercial as a result of a lot of these hatchery work. And it's a credit to this department for what they have done and Irongate is unfortunate and dependence upon hatcheries would be unfortunate but I think that if, you know, if you look at the department's record and you were to compare this with Oregon or Washington, you'd be all the more grateful that you're in California if you're a fisherman. Because, if you want to look at some places that screwed around with the genetics of the fisheries and really messed it up, go to Washington and look what they've done. Fortunately, they haven't done that in California.

ASSEMBLYMAN COSTA: What have they done in Washington?

MR. YEATES: Well, they did such things as try to figure out how to keep their salmon from going south to Oregon so they raised genetically inferior fish to turn right at the Columbia River. The problem is they didn't necessarily return back to the Columbia River so, you know, there's all those kind of games were played. So fortunately, we haven't done that in California.

ASSEMBLYMAN COSTA: Is that all those that were southpaws we're not taking in, and we're only taking in right-handers?

MR. YEATES: That's right.

ASSEMBLYMAN COSTA: It indicates here that you raised in fiscal year 85-86, 1.1 million pounds of salmon, or a little over that. Is that...who should I? Over there. Maybe, Mr. Yeates, you're in a better position to respond. How much does that account for the total amount of salmon fishery in the state that is taken. I just want to get an idea of how much the hatchery production is contributing toward the total amount of salmon that we produce each year.

MR. YEATES: That would be something that probably Nat or Dave (name) would know better...maybe Ken can...

MR. RAWSTRON: We figure that on average, we get about a 2% return of our fish, but you have to remember we're putting out a million pounds of fish like this but they're coming back...

ASSEMBLYMAN COSTA: I understand.

MR. RAWSTRON: The hatchery, depending on location, we usually, in the Sacramento-San Joaquin system, we are happy if we are talking about a 50% contribution ocean sport and commercial...

ASSEMBLYMAN COSTA: What's the contribution?

MR. RAWSTRON: About 50% from our Sacramento Valley hatcheries which include Mokelumne, Merced River, Nimbus, Feather River, and the Federal Hatchery at Battle Creek.

ASSEMBLYMAN COSTA: We're getting the salmon to start running back in the Merced again?

MR. RAWSTRON: That is the department's very active plan to do that.

ASSEMBLYMAN COSTA: If we can keep the people from taking them off as they run up the river. You had a little problem with that...

MR. HASHAGEN: But they are taking enough of them out in the ocean...we need some more fish back in the river...

ASSEMBLYMAN COSTA: No, no...I agree. I'm just...I was just...I understand there were reports of people going to the river earlier this year when they, the salmon started making the run back on the Merced.

MR. RAWSTRON: Mr. Costa, I would say that that's a symptom of low water. When you put people and big fish together they just...the people can't help themselves.

CHAIRMAN CONDIT: No discipline. O.K., is there any other question? Mr. Costa, do you have other questions for these gentlemen?

ASSEMBLYMAN COSTA: I have some technical questions that I'll ask you later on about some of the water quality stuff that we're doing and what that might affect in terms of if we have to increase flows in some of the other tributaries that currently water is being diverted. We really need to sit down together you folks and Department of Water Resources and maybe even the State Water Quality Board and try to figure out how we might make the mousetrap work better. Because the Water Quality Board, I think,

is going to create some regulations for the next two years that are going to have some profound effects and we're all going to have to live to...ultimately learn to live with it. It could be better for all of us actually if it is done properly.

MR. YEATES: Mr. Chairman, if I could, one final thing...I don't know where it would be appropriate...maybe at...when the department comes back in January with the audits and we do this all over again. But, I think it would be an interesting thing for a lot of the members to see...a production that PCF of A was involved in, the salmon stamp committee, of a video tape that shows the restoration work that's going on and the amount of effort that goes into it from a lot of nonprofit groups to raise salmon and steelhead. And, that video tape was put together and we certainly would make that available to the committee to show.

ASSEMBLYMAN COSTA: Why don't we show that at the hearing in January.

MR. YEATES: That would be great. Thank you.

ASSEMBLYMAN COSTA: How long is it?

MR. YEATES: About 12 minutes.

ASSEMBLYMAN COSTA: That would be fine. Yes.

MR. RAWSTRON: I just wanted to remind the committee that there is a citizen's salmon and steelhead advisory committee that was set up by the legislature and funded to conduct an overview of salmon and steelhead management in the state of California. I believe that a very significant portion of the report is going to dwell on the natural areas as Bill pointed

out, but there also is a very significant area about hatcheries...what's needed: funding, staffing...I have not seen the file report. I believe it's due to you January 1. Mr. Hashagen, who's been working closely with it, said it'll probably be February or March before it's actually out.

ASSEMBLYMAN COSTA: It would be nice if we got it January 1 then we could use that information for the January hearing. If that's possible. All right, in conclusion, people seem to think that with the exception of occasional snafus that occur, that the hatchery operation is generally running well and that we, the Irongate situation, I think was explained. Those are one of those unfortunate things that happen. But, that doesn't relate to any sort of track record when you look at the total picture. Is that correct? Are we to assume that? Mr. Chairman, we have finished through two days of long hearing that I think has been productive for members of both committees and to the staffs and I think there are some ideas that have been mentioned that we will probably see in the form of some legislation next year. We will follow through in January with a subsequent hearing after the report is completed by the Department. There are some other areas that haven't been mentioned to you and to myself and to other members that we may attempt to incorporate in the hearing in January depending upon how time is and what we think we can actually accomplish. But I want to thank you and members of your staff for the cooperation and for your interest in this area. I think that the resources of California are too precious to ignore and unfortunately, all

too often are taken for granted by a large segment of the public. And, I would hope the press that have gotten interested would do like the chairman of the committees do and that is stay until the end and pick up everything that has been discussed. I would hope that they would come on a regular basis to talk with you and myself and staff people and not be writing things in papers that indicate that there are certain people they shouldn't talk to. I don't think they are in the position, nor are they qualified to make that judgement. Certainly many of the stories that they've written in the past don't leave me to believe that they're qualified to make those kind of judgements. I would hope that we could continue to do good work and we don't always agree with the department. That's a fact of life. But maybe we'll be able to get some more wardens and some more monies for computers and some other areas and convince this governor that we need to spend a little more money in the area of resources, resource management, and try to see if we can figure another way to stop the competition that I think is harmful between the sports and the commercial fishing interests...the sports resource management areas that I think are counterproductive. Those resources are for everybody in this state and I think this state is big enough and certainly wealthy enough to allow for all of us to enjoy the benefits of it. Negative type of competition between those kinds of entities I don't think is productive toward promoting the resources of California. So I want to thank you. And, you can close.

CHAIRMAN CONDIT: Thank you. We've just been told there's somebody that said they signed the list yesterday to speak. We don't want to deprive anyone from speaking. If you come forward, you better hurry up because he's going to leave and and we need to swear you in. But before we do that, I, in agreement with Mr. Costa's statement, I just want to say to him and his staff, I appreciate their help and their cooperation in this hearing. They've been outstanding. I would like to say to Mr. Bontadelli and his group, the department...you've been very cooperative through this hearing and sharing information with us. We appreciate it very much. Obviously, my staff has been cooperative and I appreciate it.

ASSEMBLYMAN COSTA: I want to thank the department, as well. I add to the chairman's comments. You have done a yeoman's job in providing us a lot of time and people and information.

CHAIRMAN CONDIT: Sir, your name. Ernie, I didn't remember you signing that yesterday. But you were here yesterday.

ASSEMBLYMAN COSTA: Ernie, I called you.

MR. ERNIE FANNER: I had to go back to do something in Yolo County and I said I would be back and I was here.

ASSEMBLYMAN COSTA: Oh, I see. No, but I did say Ernie Fanner from Davis, right?

MR. FANNER: Right, I just have two comments to make.

ASSEMBLYMAN COSTA: O.K. that's fine.

MR. MOGER: I'm sorry, I missed your name.

ASSEMBLYMAN COSTA: Ernie Fanner.

MR. MOGER: Mr. Fanner, do you solemnly swear or affirm that the testimony you are about to give before this committee is the truth, the whole truth and nothing but the truth.

MR. FANNER: I do.

MR. MOGER: And, would you please have a seat and into the microphone state your full name please.

MR. FANNER: My name is Ernie Fanner and I'm supervisor from the fifth district which is basically two-thirds of the western part of Yolo County. I've sat and listened to the testimony. I'm only going to make two statements. In regards to your private land management, we had a specific instance over in Yolo County where accidentally it got to the planning commission. It was a private land management issue that the only reason why it came to our planning commission because the person that was going to propose that private land management wanted the county to vacate a road. And it came to the board of supervisors and there was approximately 2,200 people in the Yolo County Sportsmen's Association that opposed it. We denied the closure of that road because the Bureau of Land Management land was in the backside. It was the only road of access to the area and therefore nobody else could get into the area. So, therefore, on the basis...what they were saying they wanted the road abandoned because of vandalism. I considered vandalism not a criteria to abandon a road, so therefore the road is open and that's the way it was handled. I would suggest that perhaps in the fish and game directives and regulations, that it might be a good idea to

put in their directive that it be referred to the county in which this is going to be put in...be referred to the planning commission for a permit process. And that permit process, the public will have time to input and the neighbors around there will have time to come in and if there's any mitigating factors that have to go in to satisfy the sportsmen's club or the neighbors or the areas of the community, they'll have at that time have a right to know about it. Otherwise, nobody knows about it until after it's all done.

The second thing I want to talk about is about the water quality. When I came in Yolo County, I was concerned about the quantity of water and the quality of water. My main concern is that when we start having the State Water Quality Board evaluate as far as the water coming down, it's a big serious problem in Yolo County because the water coming down from Lake County...Lake County, Clear Lake...has a lot of mercury in it. And to the fact that nobody could eat any fish any more out of Clear Lake because of the high mercury content. Also, the Davis Reservoir is very high and Lake Berryessa is very high. The problem that I'm having is that when we come in, Yolo County has established an ordinance prohibiting any discharge of raw sewage or anything like that. When we get the Water Quality Board making an evaluation as far as what type of sewage system they could put in, it's always the economy of the cost of the system. And sometimes instead of allowing \$9 million to do the job right, they'll allow $3\frac{1}{2}$ and during the months of January to March, they will say "well, in those high areas, you can discharge into Cash

Creek." The point that I'm trying to make is that the Fish and Game has to really come on strong on these hearings as far as water quality is concerned. Because if you hear over and over and over again, the quality of the water is the main factor as I just heard as far as the fish hatcheries are concerned. They've got to stand up to be counted, although it's another state agency, because the Water Quality Board with a lack of funds is going to take the minimum cost and that's going to cause problems for counties. It's a problem for Yolo County, it's a problem for Solano County, it's a problem all over because eventually it all gets down to the Bay. So, those are my two comments. I think if you go to the planning commission and the permit process of any of these land management things, people will have an input and the sportsmen will have an input. That will take care of that. And the Fish and Game Commission has got to be strong, has got to be firm, and to protect the fish in those streams whenever we start talking about water quality and discharges from sewer systems. And, thank you very kindly.

CHAIRMAN CONDIT: Thank you Mr. Fanner.

ASSEMBLYMAN COSTA: Thank you very much. The Water Quality Board, as you know, is reviewing those standards and will be setting new standards in the next two years for discharge purposes. Thank you. These hearings are adjourned by both committees.

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APPENDICES

STATEMENT
FOR
LEGISLATIVE INTERIM COMMITTEE HEARING
AB 3081 IMPLEMENTATION

PRESENTED BY

PETER M. SAKAI
CHIEF, COMPLIANCE AND EXTERNAL AUDITS BRANCH
DEPARTMENT OF FISH AND GAME

AB 3081 (Felando-Polanco Fisheries Act of 1986) was implemented by the Department in accordance with timelines specified in the bill. The following areas were affected by the enactment of AB 3081:

- Effective January 1, 1987, fees for commercial fish business licenses were increased significantly, and the licensing requirements were drastically revised.
- Documentation requirements for commercial fish transactions were revised.
- The privilege tax on fish was redefined as a "landing tax".
- Fish privilege taxes which were determined to be due to the State by an Attorney General's legal opinion (85-1001), from "second and subsequent tier handlers of fish", were compromised, with certain exceptions. AB-3081 also affirmed the past practices of the Department in the collection of the fish privilege tax from "first tier handlers of fish", and from licensees who "can or cook" fish imported into this State.
- With the exception of permits for the commercial harvesting of salmon, nearly all commercial fishing license and permit fees were increased.

Because AB 3081 had such a far reaching effect on the Department's operations and on the commercial fishing industry, an AB 3081 Implementation Committee was established to coordinate efforts to modify procedures; notify commercial fishermen and commercial fish businesses of new requirements, develop the necessary record keeping systems; train field personnel; create new forms, license applications, license stamps and tax reports.

The AB 3081 Implementation Committee was composed of staff from Licenses and Revenue Branch, Wildlife Protection Division, Information Services, Marine Resources Division, and the Compliance and External Audits Branch. Through the efforts of the AB 3081 Implementation Committee and field staff throughout the State, all provisions of AB 3081, except for the study on alternative funding (due January 1, 1988), have been implemented.

The Department previously estimated that enactment of AB 3081 would increase Fiscal Year 1986-87 commercial fishing revenues by approximately \$1.2 million. Comparison of Fiscal Year 1985-86 and Fiscal Year 1986-87 commercial license and tax revenues show a \$1,095,613 increase for Fiscal Year 1986-87.

<u>Category</u>	<u>FY 86-87</u>	<u>FY 85-86</u>	<u>Difference</u>
Commercial License and Tax Revenues	\$5,069,452	\$3,973,839	\$1,095,613

To help maintain this increased level of funding, the Department has established an annual commercial fish business licensing compliance program and AB 3081 training program. The licensing compliance program is designed to follow up on businesses who have not renewed their license for Fiscal Year 1987-88. Also, businesses and persons who are suspected of landing fish without the appropriate license will also be contacted. This enforcement plan requires the participation of field personnel, especially in regions 1, 3 and 5. In Fiscal Year 1986-87, 1,122 commercial fish business contacts were made and documented by the Special Operations Unit Regional Assistance Team, field wardens and audit staff as a result of increased efforts to enforce licensing requirements. The AB 3081 Commercial Fish Business Licensing and Landing Tax training is available to all regions upon request.

Future efforts to monitor and improve compliance with fish receipting requirements within specific fisheries are presently in the planning stages.

TESTIMONY OF KENNETH J. KUKUDA
TO THE JOINT HEARING REGARDING THE
MANAGEMENT AND OPERATION
OF THE
DEPARTMENT OF FISH AND GAME
OCTOBER 27, 1987

My name is Kenneth J. Kukuda. I am the publisher/editor of South Coast Sportfishing Magazine. I am pleased to state that the magazine is recognized as the #1 magazine covering salt-water fishing in Southern California and Baja. Also, I am the author and proponent of the first and current initiative that would ban the use of gillnets by commercial fishermen in Californian waters.

When I first became involved in the saltwater fishing industry in September of 1984, my relationship with the California Department of Fish and Game and the California Fish and Game Commission was like most -- that is, I believed that I was subject to their regulations and I was to pay a reasonable license fee to enjoy the benefits of sportfishing, and that the purpose of the Department of Fish and Game as well as the Fish and Game Commission, was to manage the resources on behalf of the best interests of all of the people of California. Simply put, I thought the regulations were adopted and license fees were collected for the interest of all of the people of California.

Within a very short period of time I became disillusioned. I soon discovered that the management of the Department of Fish and Game did not serve the best interests of all of the people

of this state. Furthermore, I became disappointed that the leadership and management for the Department of Fish and Game failed to acknowledge nor give concern to the interest of the sportsmen of this state.

As publisher and editor of South Coast Sportfishing Magazine, I have had the special opportunity to receive input from many people throughout this state. I regularly receive input from people in various segments of the sportfishing industry, including captains and owners of sportfishing boats, owners and operators of sportfishing landings, members and presidents of sportfishing clubs and sportsmen organizations, tackle store owners, as well as sportsmen of this state. It soon became obvious that there was a problem with the management of the Department of Fish and Game and ultimately the resources of this state. In fact there were many problems.

In October of 1985, under the direction and with the support of the Department of Fish and Game, legislation was passed that increased sportfishing license fees to the highest level of any state in this country. Publicly the sportfishermen of this state were promised that this increase would be for one year. This promise was soon forgotten and the license fee increase is now permanent.

An ocean license fee was increased from \$8.00 per year to \$10.00 per year -- a 25% increase. An ocean and freshwater license fee was increased from \$13.75 per year to \$18.00 per year -- a 31% increase. Again the sportsmen of this state were told

that this would be a one time increase to help balance the deficit. However at no time were we advised nor were we really able to ascertain what that deficit was. As a result of these license fee increases, nearly 150,000 less licenses have been sold. Even though there have been less licenses sold the substantial increase of fees has resulted in over 5.6 million dollars being collected by the Department of Fish and Game from the sportsfishermen of this state.

To this day the Department of Fish and Game cannot produce nor justify a readable budget or even document its expenditures. I strongly encourage you to read the auditor general reports. The Department must be given credit for taking simple accounting procedures to new levels of confusion.

The sportsfishermen of this state would not mind paying additional fees if they believe they were well spent. And there is a great deal of mistrust with the Department and it is all justified.

If the accounting isn't bad enough consider the licenses themselves. The Department I am sure will present their excuses as to why licenses continue to be issued mostly through tackle stores and landings throughout the state. The number is declining. This decline is a result of this volunteer group being fed up with the practices and procedures of the Department of Fish and Game. When legislation was introduced to require the Department to be accountable for these funds they simply used that legislation as an excuse for their failure to create an

efficient system of license distribution and sales. Would you be willing to allow driver's licenses to be issued by auto part stores? That's effectively what occurs with respect to the Department of Fish and Game. Not only that but there are no records of who these licenses are issued to.

The license fee and the license itself is just one indication of the mismanagement ineptitude of the Department of Fish and Game. During the controversy over raising the sportfishing license fees I became familiar with the financing and management of the Department of Fish and Game. Familiarity that in some ways I regret. I regret it simply because I discovered the degree in ineptitude in mismanagement that exists and the price for this ineptitude in mismanagement is borne by the sportsfishermen and all of the people of California. Among the disturbing facts I learned that the Director of Fish and Game had failed to perform his statutory duty to collect commercial fishing privilege taxes. These taxes have been owed to the people of California for many years, and when the debt was pointed out to the Director, he refused to institute collection. Subsequently on December 11, 1986 I filed a Petition for Writ of Mandate. After a hearing, the presiding judge for the Superior Court, County of Sacramento, granted a Preliminary Writ requiring the DFG Director Jack Parnell to collect these unpaid taxes or to show legal cause why he had not done so.

The facts clearly indicate that rather than do his job under the law, Jack Parnell covertly supported legislation (AB 3081)

that resulted in the forgiveness of a substantial portion of these taxes. According to your own legislative records and files the hearings that reviewed this legislation lasted a mere one minute. You should be interested to know that although all taxes were not forgiven by this legislation the Director and the current acting Director continue to refuse to do their statutory job and collect those taxes not forgiven.

Since the litigation I filed on December of 1986 is still pending I intend to challenge the constitutionality of Assembly Bill 30A1 as a gift of public resources.

It is your responsibility in this hearing to review the actions or should I say inactions of the Director with respect to these commercial fish privilege taxes. Don't be confused by the excuses you will be given by the Department or by the Commercial Fishing Lobby.

You can be assured that all of the people of California and especially sportsfishermen of this state will be closely watching the actions of this hearing. You cannot ignore or deny the continuing evidence of mismanagement ineptitude by the Department of Fish and Game. You can no longer ignore or deny that the people of this state are demanding action.

I will be happy to answer any specific questions you may have.

Thank you.

Kenneth J. Kukuda
Publisher/Editor
South Coast Sportfishing Magazine
3400 West MacArthur Blvd.
Santa Ana, California 92704
(714) 540-2144

I have attached a copy of my statement made to the Saltwater
Subcommittee of the California Fish and Game Commission on
October 1, 1987.

1 ALAN M. LURYA
2 3400 West MacArthur Boulevard
3 Santa Ana, CA 92704
4 (714)540-0894
5 Attorney for Petitioner
6 CALIFORNIA SPORTFISHING ASSOCIATION

7 KENNETH J. KUKUDA
8 3400 West MacArthur Boulevard
9 Santa Ana, CA 92704
10 (714)540-2144
11 In Propria Personam

12 SUPERIOR COURT OF CALIFORNIA

13 COUNTY OF SACRAMENTO

14 CALIFORNIA SPORTFISHING)
15 ASSOCIATION, an unincorporated)
16 association; KENNETH J. KUKUDA,)
17 an individual,)

18 Petitioners,)

19 vs.)

20 JACK C. PARNELL, Director,)
21 Department of Fish and Game,)
22 State of California,)

23 Respondent.)

24 CASE NO.

25 ALTERNATIVE WRIT
26 OF MANDATE

27 (C.C.P. §1087)

335488

28 TO: JACK C. PARNELL, DIRECTOR, DEPARTMENT OF FISH AND GAME,
STATE OF CALIFORNIA, RESPONDENT:

WHEREAS, it is alleged by the verified Petition of
Petitioners CALIFORNIA SPORTFISHING ASSOCIATION, an
unincorporated association, and KENNETH J. KUKUDA, an
individual, that Respondent JACK C. PARNELL, Director,
Department of Fish and Game, State of California:

1. Determined pursuant to an audit completed in
April 1985 that certain companies underpaid the amount

1 of tax owed to the Department of Fish and Game;

2 2. Sought the advice of the Attorney General
3 of the State of California and was advised by the
4 Attorney General to begin collection proceedings
5 against said companies for taxes owed to the
6 Department of Fish and Game; and

7 3. Has failed and refused and continues to
8 fail and refuse to begin collection proceedings
9 against said companies for taxes owed to the
10 Department of Fish and Game;

11 WHEREAS, it appears that Petitioners are
12 beneficially interested in this proceeding;

13 WHEREAS, it appears from the verified Petition
14 that Petitioners have no plan, speedy, and adequate remedy
15 in the ordinary course of law and that an alternative writ
16 of mandate should issue;

17 NOW, THEREFORE, you are commanded ~~immediately~~
18 ~~(or) on or before~~ 19 to
19 institute collection proceedings under California Fish and
20 Game Code Section 8045 et seq., or

21 IN THE ALTERNATIVE, to show cause before this
22 Court at the courtroom thereof at 720 9th Street, Sacramento,
23 California 95814 on April 18, 1986, at 8:30 a.m., why ^{induct to} ~~be~~ be
24 you have not done so.

25 The writ shall be served on Respondent on or
26 before December 23, 1985.

27
28 / / /

1 The written return, if any, to this writ, shall
2 be filed and served by Respondent on or before January 23
3 1986

4 DATED: DEC 11 1985

5 Witness the Honorable JOHN M. SAPUNOR

6 Attest my hand and the seal of this Court this
7 11th day of December, 1985

9 JOYCE RUSSELL SMITH

10 Clerk of the Superior Court



11 By: N. Dier
12 Deputy Clerk

13 N. DIER

14 O R D E R

15 Let the foregoing Writ issue:

16 (IT IS FURTHER ORDERED that a copy of this
17 alternative Writ (and a copy of the Petition) be served at
18 least 20 days before the hearing on the above Order to Show
19 Cause.)

20 DATED: DEC 11 1985

21
22
23
24 John M. Sapunor
25 Judge, Superior Court
26
27
28

MARINE LAW ENFORCEMENT

Prior to July 1, 1985 the Department was organized into six regions and various staff functions. There were five regions with inland responsibilities and one region with marine and commercial responsibilities. Each region had an enforcement function.

In order to increase efficiency; eliminate duplication of supervisory positions; reduce specialization within the warden's ranks and develop more well rounded officers; and to provide better training and supervision the Department eliminated the separate marine region. Marine enforcement responsibility was assumed by the adjacent land region and enforcement officers were reassigned as appropriate.

Department wide this reorganization seems to be working very well. The one potential exception is in the southern California area of Region 5 where the Department's historic vacancy rate makes evaluation difficult.

To assure that our marine enforcement effort did not suffer because of the reorganization, specific steps were taken to increase our marine presence. Regional enforcement personnel were instructed to provide a 10% increase in hours devoted to marine patrol. This contributed to a 54% increase in

commercial and a 64% increase in sport fishery citations in F.Y. 86-87. An even greater increase has been achieved in commercial fish business inspections. Statewide, the Special Operations Unit documented 195 fish business inspections conducted in fiscal year 1985-86. In fiscal 86-87, 1122 inspections were made. These figures do not include a large number of fish businesses inspected by the regions, independent of the Special Operations Unit. One warden recently made contacts in one week which resulted in the sale of over \$6,000 worth of licenses. Another warden reported contacts which resulted in license sales of over \$2,000. Since July 1, 1986, the 119 patrol officers involved in varying degrees in marine enforcement have received a total of 3600 hours of training in that subject.

The stated goals of the reorganization have essentially been met. However, our intent is to seek continual improvement in the effectiveness of our marine enforcement effort. The addition of two long range patrol vessels and the training of alternate crews are steps in that direction. The Department is working to fill the vacancies in southern California. Special Operations Unit will continue its monthly fish business investigation details in selected areas of the state and the regions will continue routine inspections in their assigned areas.

Additionally, the Department has taken steps which should improve the overall quality of the officers involved in

marine law enforcement. Historically, the Department's newly hired wardens have gone to the required peace officer academy and then directly to the field. They received very little or spotty training in laws specific to fish and game. The Department was concerned by this lack of training, so a Field Training Officer (FTO) Program was developed to train all newly hired wardens in the specifics of how to be a Fish and Game Warden.

The training consists of an intensive thirteen week course developed especially for wardens. It includes ten critical Fish and Game learning units with daily field experience in the presence of a veteran warden FTO. When the new warden completes this program, he/she is considered to be a solo warden capable of handling any task. If the new warden does not complete the program, he/she is deselected and rejected on probation. This program has had a positive impact on both land and marine enforcement training. The Department feels that this program develops wardens from two to three years quicker than under the old system.

The Department has also started its own law enforcement academy. The academy meets all Commission on Peace Officer Standards and Training guidelines and is geared toward the Fish and Game Warden. The academy is being held at Napa Junior College. The first class begins on November 2, 1987.

An important part of our marine enforcement efforts have been

carried out by a fleet of patrol boats based in various strategic locations along the coast.

The major boats involved were as follows:

NAME	LOCATION	SIZE	AGE
BLUEFIN	EUREKA	65'	20+ YEARS
BONITO	SAN FRANCISCO	40'	16+ YEARS
TUNA	MONTEREY	40'	16+ YEARS
YELLOWTAIL	CHANNEL ISL.	44'	14+ YEARS
MARLIN	LONG BEACH	40'	16+ YEARS
ALBACORE	LONG BEACH	65'	16+ YEARS
SKIPJACK	SAN DIEGO	30'	15+ YEARS

The fleet was able to handle the task when the boats were first purchased. However, different fishing methods, the development of new fisheries which ranged far offshore and increased maintenance costs as the boats grew older made changes in the Department's boat operations necessary.

The Department developed and implemented an ambitious plan to upgrade the fleet and to redeploy existing boats to more adequately provide an offshore presence. A Budget Change Proposal was developed and the proper funding to begin a replacement program was placed in the Governor's Budget for the 1987/88 fiscal year. The budget was approved and the Department has acquired two new patrol boats.

The new boats are 100' crew boats which were obtained for a fraction of their value because of the depressed oil economy. One boat is currently on the water providing patrol in the southern California area. The other boat is still in the process of being refitted to suit patrol needs. It should be available for patrol in mid-December.

The current make up and status of the fleet is as follows:

NAME	LOCATION	SIZE	STATUS
BROADBILL	EUREKA	100'	PATROL SO. CAL
ALBACORE	SAN FRANCISCO	65'	PATROL
BONITO	BODEGA BAY	40'	BEING SURVEYED
BLUEFIN	MONTEREY	65'	PATROL
YELLOWTAIL	CHANNEL ISL.	44'	PATROL
MARLIN	LONG BEACH	40'	PATROL
HAMMERHEAD	LONG BEACH	100'	REFITTING
TUNA	SAN DIEGO	40'	SURVEYED
SKIPJACK	SAN DIEGO	30'	SURVEYED

When the refitting of the Hammerhead is completed it will begin patrol of the southern California waters and the Broadbill will be moved to Eureka. The Skipjack was replaced by the Hammerhead and when the Bonito, Tuna, and Marlin are replaced with newer more seaworthy boats, the fleet will be comprised as follows:

NAME	LOCATION	SIZE
BROADBILL	EUREKA	100'
ALBACORE	SAN FRANCISCO	65'
BLUEFIN	MONTEREY	65'
NEW	CHANNEL ISL.	60'
YELLOWTAIL	KING HARBOR	44'
NEW	LONG BEACH	60'
HAMMERHEAD	LONG BEACH	100'
NEW	SAN DIEGO	40'

The process of upgrading our fleet will take approximately 6 years. When it is complete we will have added an additional boat and redeployed the boats to do a more effective job with today's fisheries. We are attempting to speed up the process by one year by asking for a deficiency in the current budget year. This was made necessary by a fire aboard the Tuna. If we are successful in obtaining the deficiency the upgrading will take 5 years.

Finally, the reorganization has resulted in better coordination between the Wildlife Protection Division and the Wildlife Protection functions of the various regions. The complicated laws related to the marine resources make close coordination between the regions extremely important in order to assure that they are enforced equitably statewide. All senior regional law enforcement officers, regional managers and Wildlife Protection staff meet at least six times per year to assure that this coordination takes place.

The Department is convinced that increased efficiency has been and will continue to be realized in marine commercial and recreational fishery law enforcement.

STATEMENT PRESENTED TO THE
JOINT HEARING OF THE ASSEMBLY COMMITTEES ON WATER,
PARKS AND WILDLIFE AND GOVERNMENTAL ORGANIZATION
REGARDING THE MANAGEMENT AND OPERATION OF THE DEPART-
MENT OF FISH AND GAME

By
Richard L. Hubbard
Executive Director
California Natural Resources Federation

I am Dick Hubbard, Executive Director of the California Natural Resources Federation, the State Affiliate of the National Wildlife Federation, the largest conservation organization in the world, with 4.5 million members and supporters. We're one of the faster growing conservation organizations in the State.

Both the California Natural Resources Federation and the National Wildlife Federation strongly support, as a basic principle, the proper professional management of all natural resources. We have serious concerns that California's resources are not being professionally managed in a proper manner. The fact that you are holding this hearing suggests that you and others share this concern.

We noted that your agenda addressed very specific items and asked that we be allowed to make a generic rather than specific statement. We strongly feel that the specific problems listed on your agenda are symptoms of a much broader problem.

California has probably the most politicized structure for managing its natural resources of any state in the Union. Using fish and wildlife management as an example, the Governor appoints the Secretary of Resources, the Fish and Game Commission, and the Director and Deputy Directors of the Department of Fish and Game. There's also heavy involvement of the legislature in many management issues, such as commercial fishing. Small wonder that most decisions are political rather than professional.

This is far from the norm. We're doing a study to define the various models for fish and wildlife management used across the country. National Wildlife Federation staff is helping, as is the Western Section of The Wildlife Society, an affiliate of ours which is the professional organization for wildlife biologists. We've also requested the original responses of the Assembly Office of Research's questionnaire sent out to gather information related to ACA-44 (Campbell).

At this early stage of our study, the best information we have comes from a 1982 report prepared by the Wildlife Management Institute, Washington, D.C., working with the Professional Improvement Committee of the International Association of Fish and Wildlife Agencies. I have attached a copy of the summary report to the printed version of my remarks for those of you who wish to delve deeper. Forty-six of a possible 54 states and territories responded. There are some interesting results:

- 35 of the 46 respondents had directors with degrees in fish or wildlife. Nineteen had master's degrees; 4 had Phd's; and the remainder had bachelor's degrees. It's been some time since California has had a trained fisheries or wildlife biologist heading what is supposedly a "professional" organization. Our Department has excellent professional biologists at mid and lower levels. Our concerns center on what often appears to be a lack of professional orientation at the decision-making level.
- Of 24 states having fish and game management under a consolidated organization, such as our Resources Agency, 16 had separate directors, one for fish and one for wildlife, and 4 had one director for both fish and wildlife.
- All 16 directors of fisheries have degrees in fisheries and/or wildlife. Twelve of the directors have more than 10 years of fisheries management experience.
- Of the 16 directors of wildlife, 15 have degrees in fisheries and/or wildlife. Nine of the directors have more than 10 years of wildlife management experience.
- Of the four directors occupying a combined fish and wildlife position, three have a master's degree and one has a bachelor's in fisheries and/or wildlife, as well as considerable management experience.

Comparing California to these figures, we don't shape up at all well.

How do other states hire their director? Of the 46 directors of fish and/or wildlife agencies, 25 are appointed solely by commissions (fish, wildlife or natural resources), 9 by administrators of large consolidated conservation agencies, 6 by some combined action of the Commission-Governor-Administrator, and only 6 by direct Governor appointment as is true for California.

We think that California's lack of a professional natural resource management structure is responsible for many of the problems you are addressing at this hearing and the loss of respect and confidence of the people of California in our current natural resources management program. We think that it is time that California takes a hard look at our natural resource management structure -- which is obviously not working nearly as well as we all desire -- and makes some changes.

Sweeping changes -- such as brought about through a state-wide initiative -- can be traumatic. More gradual change, developed in a comprehensive fashion through the normal legislative process, is undoubtedly preferable. We stand ready to assist in your legislative deliberations. But we insist that positive changes occur, beginning with these hearings today. The current system is a political anachronism that simply isn't working.

Thank you for the opportunity to present this statement.

RESULTS FROM QUESTIONNAIRE
ON U.S. STATE AND TERRITORY
FISH AND WILDLIFE AGENCY DIRECTORS OR ADMINISTRATORS

Background

At its September 1981 meeting in Albuquerque, the International Association of Fish and Wildlife Agencies concluded that it would be helpful and timely to assemble certain information on the position of director or administrator of fish and/or wildlife in each state and territorial agency in the U.S., as well as characteristics of individuals occupying those positions. The Wildlife Management Institute was invited to work with the Association's Professional Improvement Committee to obtain the pertinent information via questionnaire. This was the first step in assembling information to seek improvements in the tenure and stability for state and territory directors.

Results

Of the 50 states and 4 territories (American Samoa, Guam, Puerto Rico and Virgin Islands), responses could have been received from 56 state and territorial fish and wildlife agencies (Pennsylvania and Washington each have separate fish and wildlife agencies). Through 30 April 1982, responses had been received from 46 agencies. The information provided is summarized below according to the sequence in which the questions were asked.

1. Background of incumbent agency director, paid commissioner or administrator of fish, wildlife or both.

Of the 46 directors who responded, 43 have one or more college degrees, while others have had some course work toward a degree and/or one or more decades of service in the conservation field. Of the 43 directors, 22 have degrees in wildlife, 5 in fisheries, 8 in both fish and wildlife, and 8 in other fields (including biology, business administration, education, engineering, forestry, geology, oceanography and zoology).

Of the 35 directors having degrees in fisheries and/or wildlife, 19 have a master's degree, 12 a bachelor's degree and 4 a Ph.D. degree.

Thirty-five directors had at least five years of experience in fisheries and/or wildlife management before being appointed director.

Through 1981, incumbent directors have served: 1-5 years, 82 percent; 6-10 years, 7 percent; 11-15 years, 5 percent; 16-20 years, 5 percent; and 21-25 years, 1 percent. Their full terms of service will be established at some future date.

2. Fish and/or wildlife agencies (division, bureau, section, etc.) within a large consolidated agency, such as a Department of Conservation or Department of Natural Resources.

Report prepared by the Wildlife Management Institute, Washington, D.C., working with the Professional Improvement Committee of the International Association of Fish and Wildlife Agencies, April 1982.

Of the 46 fish and/or wildlife agencies responding, 24 are part of a larger agency and 22 are separate agencies for fish and wildlife. The New Mexico fish and wildlife agencies were reorganized four years ago and are among the most recent to become a part of a consolidated Department of Natural Resources.

Of 24 directors of consolidated conservation agencies, 23 have one or more college degrees, with 8 of the 23 having degrees in fisheries and/or wildlife and considerable professional experience in these fields. The remaining 15 directors of larger agencies did not have any prior experience in fisheries and/or wildlife.

Based on the perspective of individuals completing the questionnaire, 18 indicated that the rate of turnover of persons serving as director or administrator of the consolidated conservation agency is "reasonable," while 6 believed the turnover has been rapid. Some respondents emphasized that the directors of large conservation agencies are subject to Governor's appointment, such as every four years.

3. Background of incumbent serving as head of fish and/or wildlife unit within a large consolidated conservation agency, such as a Department of Conservation or Department of Natural Resources.

Of the 24 large consolidated conservation agencies, 16 had separate directors for fish and wildlife, 4 had one director for both, and 4 did not provide any information.

All 16 directors of fisheries have degrees in fisheries and/or wildlife, with 9 having master's degrees and 7 having bachelor's degrees. Twelve of the 16 directors have more than 10 years of fisheries management experience.

Of the 16 directors of wildlife, 15 have degrees in fisheries and/or wildlife, with 7 having bachelor's degrees, 7 master's and 1 Ph.D. Nine of the 16 directors have more than 10 years of wildlife management experience.

Of the four directors occupying a combined fish and wildlife position, three have a master's degree and one has a bachelor's degree in fisheries and/or wildlife, as well as considerable management experience.

4. Current procedures used to appoint fish and/or wildlife agency director, paid commissioner or administrator.

Of the 46 directors of fish and/or wildlife agencies, 25 are appointed solely by commissions (fish, wildlife or natural resources), 9 by administrators of large consolidated conservation agencies, and 6 by governors. In another 6 cases, some combined action of the Commission-Governor-Administrator is involved.

Thirty-eight fish and/or wildlife directors are appointed for indefinite terms and serve at the pleasure of the appointing authority, 3 (Alaska, Arizona and New Hampshire) for five-year terms, 2 (Illinois and Oregon) for four-year terms, and 1 (North Dakota) for a two-year term. Each of the six directors with fixed terms can be removed for cause during the term. Two directors (New York and Rhode Island), serving in states where their positions are covered by civil service, stated they were appointed for "permanent terms." 517

Written contracts cover only three director's appointments: Arizona for a five-year term; Oklahoma for a one-year term; and in Michigan, the term is not stated, only the functions and responsibilities associated with the position.

Of the 46 positions of director of fish and/or wildlife, 5 (Colorado, New York, Ohio, West Virginia and Puerto Rico) are under a civil service system, 4 (Alabama, Indiana, New Jersey and Virginia) are under a merit system, 4 (Hawaii, Illinois, Rhode Island and Wisconsin) are under a combined civil service-merit system, and 1 (Florida) is under the state senior management service.

5. Salary (1981) for state or territory fish and/or wildlife agency director, paid commissioner or administrator.

Table 1. Annual salaries reported for 1981 by 46 directors.

Range	Number	Percentage
\$20,000-\$25,000	1	2
\$25,000-\$30,000	4	9
\$30,000-\$35,000	8	17
\$35,000-\$40,000	8	17
\$40,000-\$45,000	11	25
\$45,000-\$50,000	8	17
\$50,000-\$55,000	4	9
\$55,000-\$60,000	1	2
\$60,000-\$65,000	0	0
\$65,000-\$70,000	1	2
Total	46	100

Range: \$23,000 - \$66,900
Average: \$40,980

Note: In one state, a residence is provided in addition to the stated salary.

Director's salaries are established:

- 14 by state personnel boards;
- 8 by state legislatures;
- 7 by governors;
- 5 by fish and wildlife commissions;
- 3 by civil service pay schedules;
- 3 by fish and wildlife commission and governor acting in concert;
- 2 by state personnel board and governor acting in concert;
- 1 by commissioner of finance and administration;
- 1 by administrator of large conservation agency;
- 1 by administrator of large conservation agency and fish and wildlife commission acting in concert; and
- 1 by governor and state law (ceiling) acting in concert.

Director's salaries are reviewed:

- 27 annually;
- 11 periodically;
- 5 biennially;
- 1 every 3 years; and
- 1 every 5 years.

Responsibilities for reviewing director's salary rest with:

- 10 governor;
- 9 legislature;
- 7 fish and/or wildlife commission;
- 7 state personnel board;
- 4 administrator of large conservation agency;
- 2 state civil service body;
- 1 governor and state personnel board;
- 1 administrator of large conservation agency and fish and wildlife commission;
- 1 deputy administrator of large conservation agency;
- 1 state personnel director and fish and wildlife commission; and
- 1 state personnel board and fish and wildlife commission.

Salary reviews are based on:

- 14 no concrete basis;
- 7 cost-of-living;
- 4 performance;
- 3 state merit system;
- 3 comparability of salaries and cost-of-living;
- 3 comparability of salaries;
- 3 collective bargaining increases of others;
- 1 comparability of salaries and changes in job responsibilities;
- 1 grade and step pay plan;
- 1 performance and cost-of-living;
- 1 pro rata share of legislative appropriations;
- 1 cost-of-living and length of service;
- 1 civil service pay grades;
- 1 cost-of-living and merit system pay grades; and
- 1 cost-of-living, comparability of salaries, and performance.

6. Years served and background of individuals who served full terms as fish and/or wildlife agency director, paid commissioner or administrator in last 25 years (1955-1981).

From 1955 through 1981, at least 21 (46 percent) of the 46 agencies responding had the director's position filled continuously by individuals trained in fish and/or wildlife. If professional training in range management forestry, geology, conservation law-enforcement and business administration is added, another 8 agencies (17 percent) have similar quarter-century records. Thus, more than 60 percent of the fish and/or wildlife agencies have consistently had individuals with natural resource-related training and experience as directors in the past 25 years.

The average length of service for a director was 7.1 years during the past quarter century, with a 52 percent reduction in average full term served between 1955-1964 (9.8 years) and 1975-1981 (4.7 years)(Table 2). In other words, on the average, a director in the late 1950s and early 1960s served a term twice as long as a director served in 1975-1981.

While 50 percent of the directors served 1-5 years from 1955-1974, 74 percent served 1-5 years in 1975-1981. The turnover rate of directors has accelerated since 1975. From 1975-1981, no director completing a term served more than 13 years. Approximately 9-18 percent of the directors from 1955 through 1974 served terms of 16 or more years (Table 2).

Accompanying the accelerated turnover of directors in the last 25 years (1955-1981), there has been a steady increase in the number of directors having backgrounds in fish and/or wildlife, including conservation law enforcement, occupying the director positions (Table 3). From 1955-1964 to 1975-1981, there was a 56 percent increase in the number of directors having such training and experience.

Table 2. Number of years served in full terms by directors of state and territory fish and/or wildlife agencies, 1955-1981. Current incumbent directors are excluded.

Years of service	1955-1964 (43 cases)	1965-1974 (54 cases)	1975-1981 (46 cases)	1955-1981 (143 cases)
1-5	50%	50%	74%	57%
6-10	23%	28%	22%	24%
11-15	9%	13%	4%	9%
16-20	9%	7%	-	6%
21-25	7%	-	-	2%
26-30	-	2%	-	1%
46	2%	-	-	1%
<hr/>				
Average length of term (years))	9.8	7.2	4.7	7.1
Range in length of term (years))	2-46	1-28	1-13	1-46

Table 3. Backgrounds of directors of state and territory fish and wildlife agencies serving full terms, 1955-1981. Current incumbent directors are excluded.

Background	1955-1964 (43 cases)	1965-1974 (54 cases)	1975-1981 (46 cases)	1955-1981 (143 cases)
Fish and/or wildlife, including conservation law enforcement	58%	74%	85%	73%
Forestry	12%	-	-	3%
Range Management	5%	2%	-	2%
Geology	2%	-	-	1%
Others	23%	24%	15%	21%

7. Alleged "move away from hiring fish and wildlife professionals" as fish and wildlife agency directors, paid commissioners or administrators.

Of the 46 directors responding, more than two-thirds believed state and territory agency director positions are being filled with fish and wildlife professionals. These views are consistent with the findings presented in item 6. Concern was expressed by only four directors that nonprofessionals may be receiving consideration for directorship (two in fish, one in wildlife, and one in a combined fish and wildlife position). However, in all four of those cases, the individuals reported that other executive staff of the agency was well-versed technically and provided appropriate technical advice to the director. 520

8. Official, legal responsibilities for the Federal Aid in Wildlife Restoration Act (Pittman-Robertson or P-R) and the Federal Aid in Fish Restoration Act (Dingell-Johnson or D-J).

There is one overall pattern for handling both fish and wildlife responsibilities by incumbents of designated positions in the states and territories. In the 46 agencies responding, legal responsibilities of P-R and D-J are satisfied in 28 agencies by the fish and/or wildlife director, in 10 agencies by the appropriate wildlife or fish chief, in 4 agencies by the administrator of the large consolidated conservation agency, and in 3 agencies by the federal aid coordinator.

STATEMENT OF
NATHANIEL S. BINGHAM
PRESIDENT
PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATIONS
to the
ASSEMBLY COMMITTEES ON WATER, PARKS & WILDLIFE
and
GOVERNMENTAL ORGANIZATION

Sacramento

27 October 1987

Messrs. Chairmen, Members of the Committees, my name is Nat Bingham. I am the president of the Pacific Coast Federation of Fishermen's Associations (PCFFA) made-up of 22 commercial fishermen's organizations here in California and representing, through those member associations, men and women involved in troll, longline, trap, trawl, gillnet, trammel net, and seine fisheries. I wish to thank you for the opportunity to testify today on the Department of Fish & Game as it relates to: 1) funding of commercial fishery programs (i.e., AB 3081); 2) enforcement of commercial fishing laws; and 3) hatchery programs.

For those of you who do not know me, I have been a commercial salmon fisherman from Mendocino for over twenty years. I serve as the California troll salmon advisor to the Pacific Fishery Management Council. I was recently appointed by the Governor to both the Klamath River Fishery Management Council and the Klamath River Task Force and I was appointed by the Director of Fish & Game to the Commercial Salmon Trollers Enhancement & Restoration Program Committee that oversees the expenditure of salmon stamp funds.

Funding Commercial Fishing Programs. I am amazed at the distortions and misinformation that continues to flow from the outdoor fiction writers and even a member from this Legislature regarding AB 3081. That measure, as you know, passed by the Legislature in 1986, was intended to raise \$1.3 million from the commercial fishing industry to meet a projected shortfall in the commercial fishery account of the Fish & Game Preservation Fund. The bill, in addition to raising specified license, registration, and permit fees, also clarified who was subject to Fish & Game landing taxes.

I have attached to copies of this testimony an article that appeared in our newsletter last year (5 September 1986) that I think explains AB 3081 in ample

detail—what it does and what it does not. I do not intend to open the debate on the issue again, but for the fiction writers in the audience who apparently are unable to read let me emphasize a few points.

First, AB 3081 was not a forgiveness of back taxes. The Attorney General's reading of the statutes, admittedly vague, of who was liable for landing taxes was an opinion only. The executive director of PCFPA and our legislative representative, both who were attorneys at the time AB 3081 was debated and still are members of the California Bar looked at the statutes, administrative practice, and California's handling of other types of taxes and concluded the privilege tax, as it was then called, was intended to be applied only once—not on every transaction of fish. We are convinced the Legislature never intended to impose a multi-transaction tax. The bookkeeping and cost of such system to the consumer and to those engaged in the fishing industry would have been prohibitive—an onerous burden no other industry in this state is subject to.

Second, even if back taxes were owed, it would affect only the commercial fishery side of the Fish & Game Preservation Fund, not sport fishermen or the general taxpayer. I want to emphasize that since 1978, when separate accounting was begun, the commercial fishery account of the Preservation Fund has consistently had a surplus—the Department has collected more money than it has spent.

Third, landing taxes do affect commercial fishermen. Although the checks are from fish receivers, a landing tax is paid indirectly by fishermen—computed in the price they are paid by a fish receiver for their catch. Thus, landing taxes are not only felt by the shoreside processing and distribution sector, as has been alleged by some who have sought to drive a wedge between the harvesting and processing sectors of the fishing industry.

Finally, I want to emphasize that commercial fishermen have continually dug into their pockets to help fund Fish & Game. We did it with a special crab tax over a

decade ago to fund a study; we did it on herring to pay for research and enforcement and we did it with our salmon stamp program. Where the Department has demonstrated a need, we have been there.

In the future, however, we need better documentation from the Department as to its needs when it comes asking for additional funding. I think this sentiment is also shared by sport fishermen and hunters—those of us asked to pay most of the Department's bills. Also, in any future increases from the commercial fishing industry, care must be taken that we not make the entry fees so large as to reduce the number of participants, whether fishermen or processors. For that reason, and now that AB 3081 has clarified who is subject to landing taxes, future increases should be gotten from landing taxes, as opposed to licenses or registrations, and imports.

Enforcement of Commercial Fishing Laws. I am somewhat puzzled by the choice of this issue since it had been our understanding that the single largest source of Fish & Game violations is sport anglers fishing without a license. However, I do welcome this opportunity to speak on enforcement of fishery laws which has been an ongoing concern of ours.

Illegal fishing activities hurt commercial fishermen in a variety of ways whether it be access to their fair share of fish in a quota fishery, damage to a fishery resource affecting a fisherman's future harvest, or being undercut in the marketplace by those choosing to flaunt our fishery laws.

Over the past decade we have encountered serious problems with the sale of "sport"-caught salmon entering the marketplace—particularly in restaurants—in the spring of the year prior to the opening of the commercial salmon season. The problem is so serious that we requested legislation to prohibit a salmon vessel from being used in the sport and commercial fishing during the same calendar year. But, the problem persists.

Another problem has been with trawlers targeting on Dungeness crab, at times inside the 3 mile line and before the opening of the Dungeness season. Yet another problem has been the failure to enforce in some ports the recording of landing receipts. This denies Fish & Game landing taxes as well as landing data.

There has been a problem in San Francisco Bay herring fishery where a few outlaw fishermen have used more gear than permitted or deliberately fished closed areas. Because of inadequate equipment, the herring laws have not been effectively enforced and law abiding fishermen find themselves with a smaller share of the quota.

There has also been a problem with a handful of gillnet fishermen who have violated closed areas. Their incidental take of marine mammals or seabirds results in cries for greater restrictions on law abiding gillnet fishermen operating in open areas and seeking to avoid birds and mammals.

PCFFA has consistently supported legislation to assist Fish & Game's enforcement efforts in one way or another—whether it was for additional funding or personnel or changes in statutes affecting the authority of wardens. We have refused to support bills however that were merely bookkeeping exercises or studies. **We don't need studies, we need more wardens—better trained and better equipped.**

Gillnet fishermen, for their part, have raised money for that provision of the California Wildlife, Coastal & Parks Initiative, which we hope will be on the June 1988 ballot, to provide the Department with an additional \$1 million for patrol boats. It is ironic that the gillnetters who have been subjected to incessant bashing by the outdoor fiction writers are the one group in all the fisheries that have dug into their own pockets to help Fish & Game enforcement.

The problem, I believe, with enforcement is not unique to the commercial side or sport anglers, but throughout the enforcement of all our Fish & Game laws. That is, there are not enough wardens. No amount of reorganization is going to take care

of that problem. It is time for the Governor to lift the personnel freeze on Fish & Game and it is time for the Legislature to provide General Fund monies for a portion of the Wildlife Protection Branch to cover costs not associated with commercial fishing, sport fishing or hunting.

Hatcheries. I share the concern of others here today with the fish kills that have occurred at our state run hatcheries. The Salmon Stamp Committee, on which I serve, funded the fish ladder at Iron Gate on the Klamath River so I am particularly bothered by the large fish kill that happened there this spring. As you may know, commercial salmon fishermen on the north coast are regulated by what happens within the Klamath River and in 1985 they were closed down completely because of the conditions with the stocks in that river.

I am very familiar with hatchery operations having gotten a certificate myself in hatchery techniques for the salmon rearing/restoration programs I have been involved with in Mendocino County. PCFFA is directly involved in salmon rearing programs on the Klamath River, the Eel River, and Little River in Humboldt County having released some 500,000 salmon smolts over the past four years. Thus, we know the many pitfalls of artificial propagation.

The fish kill at Iron Gate reflects but one of the problems inherent in hatchery operations and should be a warning against our becoming overly, or any further, reliant on artificial propagation because of destruction of natural habitat. This is not to say, however, that hatcheries are not important to our fisheries to mitigate for losses that have already occurred or that additional hatchery production is not owed our fisheries for projects that have never been mitigated—Friant Dam, for example. But hatcheries are expensive to operate, fish kills occur with alarming frequency—either from disease or mechanical or human failure—and they can over a period of time, reduce the genetic diversity of a stock.

The answer to our hatchery problems, I believe, is to work to improve their operation—not doing away with them or "privatizing" them—ever mindful of their limitations. While I think there must be more cooperation between hatchery operators and other public agencies such as the U.S. Forest Service and private non-profit groups such as our own to offset losses attributable to habitat destruction, we must never turn over our hatcheries to companies or corporations allowing private profit from the destruction of salmon habitat.

There is no "cure-all" for hatchery problems although I think there are some steps that can be taken to improve their operations. First, the Department needs to develop a comprehensive hatchery policy. Second, the Legislature should request the federal government to mitigate fully, through hatcheries, those fish losses that have taken place that cannot be remedied by additional flows or habitat restoration. Third, there must be better cooperation between the Department and other agencies and non-profit organizations engaged in various forms of artificial propagation. Fourth, there needs to be an openness policy established for the hatcheries to prevent even as whiff of scandal from appearing when there are problems and to allow for more immediate remedial actions when they are called for.

Finally, I wish to comment briefly on the Department of Fish & Game. I have had the opportunity to work with a number of different fishery agencies—from other states and at the federal level. Overall, I think we have a fairly good Department with some very dedicated personnel. As bad as Fish & Game may appear at times, all you have to do is compare it to the Washington Department of Fisheries and thank God you're in California.

The Department has its share of problems—some of which I have already mentioned. It is suffering under an ill-advised personnel freeze; it doesn't have enough wardens or funds for adequate training and equipment. There is too often a lack of cooperation

at the field level on fish rearing programs where some of the Department's field staff appear more concerned with their "turf" than restoring fisheries—throwing up roadblocks to agencies such as the Forest Service or organizations such as ours engaged in rearing and restoration programs.

The Department has no sense of fisheries development and, as a result, our fisheries are either developed in a piece-meal fashion often lacking good resource data or they don't get developed at all. And, the "back-room" deals, many at the behest of the Resources Agency, have got to stop. Whether it be the installation of a fish screen at Van Arsdale Dam for PG&E, or dropping a protest on Bureau of Reclamation thermal pollution from Shasta Dam, negotiations of this magnitude affecting our resources and the livelihoods of fishermen have to involve those who are impacted by such decisions.

For most in Fish & Game their lives continue on, secure in their 40 hour a week jobs. That is not true for commercial fishermen. We are the ones who are put out of work when someone negotiates away the fishery. The beginning of the road to solving the problems facing the Department, I believe, begins when those of us dependent on the resources and with a stake in their long-term health are treated as partners in the process. Thank you.

Pacific FRIDAY



Published by the Pacific Coastal Federation of Fishermen's Associations, Inc.
P.O. Box 1828, San Mateo, CA 94402 USA (415) 333-6080

VOL. 14, NO. 17

5 September 1986

FISH TAIL REPORTS BILL PASSED

It was not until the final hours of its 1985-86 session, the California Legislature passed a measure to increase revenues from the commercial fishing industry by over \$1 million annually and clarify who is liable for the payment of fish landing taxes to the Department of Fish & Game. AB 3416 by Assemblyman Gerald Felando (R-South Bay) received the necessary two-thirds vote from the State Senate late Friday evening, 29 August, and was sent to the Governor for his signature.

The bill authorizes the first increase in commercial fishing license, vessel registration, and permit fees since 1978. It is anticipated it will reduce \$1.3 million to meet an anticipated deficit in the commercial fishing account in the Fish & Game Preservation Fund. The Preservation Fund is the Department's operating account; most of its revenues come from war fines (e.g., license, landing tax).

In 1978, the California Legislature passed AB 3416, by former Assemblyman Gene Gaglio (D-San Francisco), creating special accounts within the Preservation Fund to separate sport fishing and hunting revenues and expenditures from commercial fishing revenues and expenditures. The purpose of that legislation was to put an end to the long standing dispute between commercial and sport interests over who was paying and who was receiving the services from the Department of Fish & Game. At one time there was even a Director's "balance committee" created to determine if each side was paying its fair share to the Department. AB 3416 put an end to that dispute.

Page 2

5 September 1986

AB 3416, which also raised license fees for sport and commercial fishermen and increased the privilege taxes on commercial fish landings, provided for automatic increases in sportfishing and hunting fees through indexing. PCFFA objected to any automatic increases in commercial fishermen's fees through indexing since cost-of-living or other types of cost indexes have little relationship to Department expenditures or program needs. PCFFA also cautioned some sportfishing organizations about the dangers of indexing, but to no avail. As a result, sport fishermen got automatic increases through indexing; commercial fishing fee increases, when necessary, required legislation. Since the passage of AB 3416 in 1978, the commercial fishing account in the Preservation Fund has had a surplus.

As a result of a combination of factors, including increased costs of Department programs due to inflation, decreased fish landings due to El Niño and federal closures, and the loss of all but one tuna cannery in California, the Department projected there would be a deficit in the commercial fishing account by the end of 1986.

In 1985, at the Department's request, Assemblyman Felando introduced AB 1766 to increase commercial fees to meet the anticipated shortfall in the commercial account. That bill was not acted upon; PCFFA objected to any increases of fees to commercial fishermen following the Department's participation in the total closure of the commercial salmon fishery for 1985 north of Pt. Delgada. Further, the Department had not provided the fishing industry with any detailed accounting of what the deficit would be or how much was needed to be raised. Until the concerns of the fishing industry were addressed by the Department, Assemblyman Felando chose not to move AB 1766.

Late in 1985, discussions were begun again on Department funding. The Department was coming under attack at the time for both its collection and assessment procedures. Legislation had already been passed that year to increase even further sportfishing licenses and above the automatic increases provided for by indexing to meet a shortfall in the sportfishing account. At the same time some fish wholesalers began questioning the inconsistency of privilege taxes being assessed. For the most part, the taxes were being levied at the point of first landing but there were some instances where the fish were being taxed more than once. As a result, there was an "unfair" State Attorney General's opinion that fish were to be taxed at every transaction - a multi-tiered tax - and the

Department was responsible for assessing taxes in that manner and for the collection of "dock taxes".

The Department told the fishing industry that it would need an increase of \$2.5 million and proposed an across-the-board increase in licenses, vessel registrations, and landing taxes. The processing sector, represented by the California Seafood Institute (CSI), objected to any increase in landing taxes until the issue of who was liable for those taxes was cleared up. CSI proposed, at one point, the elimination of landing taxes. The issue of clarifying whether dock taxes were owed or not was not part of the bill initially since the formal Attorney General opinion had not been issued (see FRIDAY, 11 July, pp 13-15).

PCFPA, representing fishermen, supported a revision of the landing taxes with selected increases as a more equitable means for the industry to share its burden for revenues to the commercial fishing account. PCFPA opposed the flat increases (e.g., a proposed individual license of \$65.00; vessel regulation of \$195.00) and argued for smaller increases with the difference made up on special permit fees from some of the more lucrative fisheries. Both CSI and PCFPA continued to press the Department for additional details on its budget needs.

Because of the legislative deadlines for a bill introduced in 1985 to clear its house of origin, AB 1765 was dropped and a new bill, AB 3481, was introduced by Assemblyman Relando. The new bill addressed two main issues: 1) the increase in fees; and 2) the clarification of at what point and who was liable for the landing taxes. During the negotiations, CSI's board met regularly to discuss the issue; PCFPA's member associations were kept apprised of progress through memorandums and a discussion was held on the bill at the PCFPA Board meeting of 5 April. The Department, meanwhile, revised its estimate of needs projecting that \$1.3 million would be needed for the coming year; the need for the full \$2.5 million would come later depending on costs for the replacement of marine patrol vessels.

CSI, which was concerned about landing tax liabilities, sought to raise a portion of the \$1.3 million through the establishment of six new forms of business licenses. One of those, for commercial fishermen who sell their catch direct (e.g., off the boat, Farmer's Market), was a compromise between processors who wanted the fishermen to pay the full cost of a receiver's

"I never met a man I didn't want to fight"

.....Lytle Alonzo

license - \$198.00 - and PCFPA which argued the cost of such a license should be nominal.

Existing California law provides for three licenses required of persons to engage in different aspects of the fish business. They are:

Wholesalers and Preservers	Fee: \$ 65
Canneries and Processors	\$190
Importers	\$125

AB 3481 revises the licensing structure for commercial fish dealers and creates new licenses in six, more specialized categories, as follows:

<u>Fish Receiver License</u> §8033	Fee: \$308
required to purchase or receive fish from a commercial fisherman or to take fish for one's own processing.	

<u>Fish Processor License</u> §8034	Fee: \$308
required to process fish, except when preserving fish on board a commercial fishing vessel.	

<u>Fish Wholesaler License</u> §8035	Fee: \$200
required to purchase fish for resale from a fish receiver, processor, importer, or another wholesaler.	

<u>Fish Importer License</u> §8036	Fee: \$300
required to purchase or receive fish taken outside California and brought in by other than a commercial fisherman.	

<u>Commercial Fish Business License</u> §8032(a)	Fee: \$750
authorizes fish receiving, processing, wholesaling, or importing, or any combination, in lieu of this license, one must be separately licensed for each commercial fish activity engaged in. §8037	

"No problem can stand the assay" maintained thinking"

.....Voltaire

Fisherman's Retail License §8033.5
required of a commercial fisherman for
him to sell his own catch to consumers.

Fee: \$ 25

AB 3081 abolishes the former "privilege" tax and replaces it with a landing tax, generally without changing the rates applicable to particular species of fish. The general rate for the privilege tax was last increased in 1978, from 1.8 mil (\$0.001) per pound, to its current rate of 1.3 mil (\$0.0013). The rates for some species are considerably higher. The tax on dressed salmon, for example, is 55 mil (\$0.055) per pound.

AB 3081 also makes all imported fish exempt from the new landing tax. Under existing law fish imported for cooking or canning only, except pink shrimp (*Pandalus jordani*) and Dungeness Crab (*Cancer magister*), are subject to the privilege tax. Since the tax on imports only applied to fish cooked or canned, and not to pink shrimp or Dungeness Crab, the total exemption on imports would have little, if any, impact on most California commercial fishermen from existing law. That is not to say, however, that some form of tax on imports may not be justified to pay for Department services.

To remove the confusion over who is required to pay landing taxes, AB 3081 specifies that the only persons from whom it is collected are:

- Persons required to be licensed as fish receivers, or
- Commercial fishermen making sales to persons other than licensed fish receivers. §8041.

PCFFA throughout the negotiations sought to keep both the commercial fishermen's license and vessel registration fee increases low. The fear here was that substantial increases could result in some fishermen dropping out and thereby reducing the overall base of licenses (similar to what has happened in the sport(fishery) and placing, as a result, an even greater financial burden on those remaining for Department revenues. There was also concern for those fisheries that have suffered during the past years, including abalone, near-shore gillnetters and snapper fishermen, and for the increases in the salmon stamp fees that salmon fishermen would be encountering. As a result, the increases were made up substantially from those fisheries that have been lucrative and subject to special permits.

Both herring and swordfish fishermen were consulted during the negotiations by PCFFA.

The fee schedule proposed in AB 3081 is as follows:

License/Permit	Current Fee	AB 3081 Fee
Commercial Fishing	\$ 40.00	\$ 50.00
Duplicate Commercial	5.00	20.00
Vessel Registration	125.00	165.00
Charter Boat License	40.00	80.00
Student License	20.00	25.00
Fresh Water Bait License	25.00	50.00
Aquaculturist Registration	50.00	100.00
Duplicate Plates	17.50	25.00
Swordfish Permit (Harpoon)	150.00	200.00
Drift Gillnet Shark/Swordfish	150.00	250.00
Herring Permit		
Resident Gillnet	40.00	200.00
Non-Resident Gillnet	40.00	300.00
Resident Round-Baul	40.00	300.00
Non-Resident Round-Baul	40.00	500.00
Salmon Vessel Permit	30.00	30.00
Abalone Diving Permit	200.00	250.00
Abalone Crew Permit	100.00	(Eliminated)
Lobster Permit	125.00	200.00
Sea Urchin Permit	—	250.00
General Gillnet Permit	50.00	50.00
Kelp License	15.00	50.00

Existing law requires various information to accompany an application for registration of a vessel used in fishing "operations". One such requirement is the submittal of satisfactory evidence that the vessel has been registered with the county assessor. Absent this evidence, the vessel's registration with the Department is automatically revoked. AB 3081 repeals this provision. According to the Department, it does not receive any General Fund reimbursement for providing the service to county assessors.

Following the issuance of the formal Attorney General opinion on 10 July, Assemblyman Pelando requested and was granted "non-cost advice" in the Assembly and AB 3081 was sent to conference committee. In 1987,

the bill was amended to clarify legislative intent as to the past collection of the privilege tax. Absent this guidance, the Department of Fish & Game was considering initiating action for the collection of back taxes based on the opinion of its legal counsel - the Attorney General. Absent legislative guidance and without a court order to the contrary, the Department had no options.

This amendment led to charges by some southern California sportfishing publications and organizations that there was a "forgiveness of back taxes". This charge was also being made by Assemblywoman Doris Allen (R-Cypress), PCFRA's Bill Yeates, who was working with Assemblyman Felando and his staff for the passage of the bill, commented, "unfortunately, a segment of the sportfishing community and Assembly Member Doris Allen have chosen to denigrate on this issue in order to serve their narrow political and philosophical interests. It is a poorly disguised hit on the commercial fishing industry by certain segments of the Southern California sport fishing interest whose concern for marine and fishery protection extends only as far as their fishing line."

On Friday afternoon, 22 August, the PCFRA executive director held a lengthy telephone conversation with Assemblywoman Allen discussing PCFRA's position on AB 3081. The conversation followed PCFRA discussions with various sportfishing and conservation organizations that had been urged by Mr. Allen to oppose AB 3081. The following is a list of the objections to AB 3081 raised by the Assemblywoman and a paraphrasing of the PCFRA executive director's response:

AB 3081 Allows a Forgiveness of Back Taxes

Response: The Attorney General's opinion is just that - an opinion. We believe it is in error. The practice of the Department for the past fifty years (with few exceptions) has been to collect at the point of first landing from the purchaser of fish or at the point of first entry (imports) for those fish to be canned or cooked. There is no legislative language indicating an intent to tax every transaction - every sale - of fish to create a multi-tier tax structure. Further, the forms provided by the Department, pursuant to statute, for record keeping and remittance of the so-called "privilege" taxes are for the point of first purchase of fish in the state. AB 3081 simply clarifies the practice that has been going on for fifty years.

"How much easier it is to be critical than correct"
.....Benjamin Disraeli

There is no evidence that taxes at the point of first landing were not collected, nor would AB 3081 affect those.

AB 3081 Deprives the Department of Needed Funds

Response: There has been a continuing surplus in the commercial fishing account since 1978. Further, AB 3081 will raise additional revenues from the commercial sector to meet an anticipated deficit in 1987. The Department's main problem is the personnel freeze that has stymied needed research, monitoring, and enforcement efforts. Much of the work the Department is required to do simply cannot be contracted. Until the freeze is lifted, it does little good for the commercial fishing industry, or sportfishermen or hunters for that matter, to raise money in their accounts beyond the Department's actual requirements right now.

AB 3081 Hurts the Taxpayer

Response: The Department of Fish & Game receives no General Funds except those mandated by the Legislature for special programs (e.g., environmental assessment, mitigation); it is funded by user fees. Further, since the passage of AB 3416 in 1978, revenues received from the commercial fishing industry can only be expended on commercial programs or the commercial fishery share of a program (e.g., enforcement). Thus, the only "taxpayer" affected here is the commercial fishing industry.

AB 3081 Hurts Commercial Fishermen

Response: There are really three sub-issues here: 1) a single landing tax; 2) clarification of legislative intent on back taxes; and 3) imports.

First, AB 3081 by making clear it is the state's intent to collect a single tax at the point of first purchase helps commercial fishermen. Had the Department sought to collect a tax for every transaction, the price of fish could have increased anywhere from 5¢ to 50¢ per pound. Since California produced fish have to compete in the marketplace with fish from other states and nations, it is unlikely either the wholesaler or the consumer would have absorbed this increase - rather it would have translated into a lower price per pound paid to commercial fishermen.

"Unable to get our own way, often we settle for trying to prevent other people from getting their way".....Sheldon Kople

Second, arguably the collection of \$10 million, or whoever's estimate can be believed, from wholesalers beyond the initial fish dealer who paid the "privilege" taxes could reduce the amount of license and permit fees paid by commercial fisherman, but this is highly speculative. Indeed, with the existing hiring freeze, the attempt to collect the back taxes the Attorney General's opinion claims are due would simply divert Fish & Game personnel - wardens, biologists, managers - from existing programs into accounting exercises attempting to find out what would be owed and from who, and then trying to collect it.

Third, the elimination of the tax on imports in AB 3081 will have little, if any, affect on California fishermen marketing their product. Species such as pink shrimp and Dungeness Crab were already exempt and the privilege tax only applied to fish imported for cooking or canning. Thus, Norwegian or Chilean salmon, for example, were already exempt.

This is not to say, however, that a tax should not be considered on imports. A carefully drafted tax on fish imports, that would not be in violation of the commerce clause of the U.S. Constitution, should be given consideration to defray Department costs for inspecting, monitoring and enforcement associated with the importation of fish into California. There is ample justification, from an enforcement standpoint, for some form of import tax on species such as salmon, striped bass, sturgeon, steelhead, and Dungeness Crab. Because AB 3081 did away with a poorly drafted import tax did not cause PCPFA to oppose the bill (as was stated by Ms. Allen on the floor of Assembly on 26 August).

AB 3081 Will Hurt Small Fish Dealers

Response: It is true that the increases for fish buying/wholesaling licenses are significant. However, absent a willingness to increase fish landing taxes, there was no other way to raise the necessary monies. The fish taxes were not increased because of the uncertainty of who was liable. Further, these increases were proposed by CSI which represents that sector of the commercial fishing industry.

The Issue of Back Taxes Should Have Been Decided by the Courts, Not the Legislature

"Laws are like sausages. It's better not to see them being made"

.....Otto von Bismark

Response: It is true that the amendment to AB 3081 clarifying legislative intent on the past collection of privilege taxes was not heard and adopted until conference committee. That is because the Attorney General's formal opinion was not issued until after AB 3081 had passed out of the policy committees in both houses. Until the Attorney General's formal opinion, there had not been any reason for such an amendment. And, to have delayed Legislative action on that issue until the next session would have caused unnecessary chaos for both the Department and the commercial fishing industry.

Opponents of the clarifying amendment knew about the conference committee and had an opportunity to speak in opposition to the amendment at that time for the record. There was no opposition voiced, and the amendment was adopted unanimously.

Although the courts are the proper place to seek clarification on Constitutional and common law questions, the courts, as any attorney should know, should be used only as a last resort when a dispute cannot be resolved or a question answered. It is proper for the Legislature to clarify what it means when a statute is ambiguous and, indeed, preferable to a court attempting to decide legislative intent.

Because AB 3081 required a two-thirds vote and due to the arguments the opposition was raising (whether valid or not), the bill did not have easy going and required a strong bi-partisan effort to get it passed. In the Assembly, Assemblyman Felando, the Republican Caucus Chairman, and Assemblyman Dan Hauser (D-Arcata) both worked hard for passage on the floor. On the Senate side, Senate Majority Leader Barry Keene (D-Benicia) brought the bill up and pushed hard for its passage in that house. Lobbying the bill were Rob Ross of CSI, Frank Mason of the Western Fishboat Owners Association (WFOA) and PCPFA's Bill Yeates. Yeates was able to convince enough Senators that the bill would also help individual commercial fishermen, not simply "fat cat fish dealers", in order to get the necessary votes for passage.

AB 3081 was the product of long hours of hard work and negotiations by Assemblyman Felando and his staff, Elaine Powers, with the Department of Fish & Game, Legislative Counsel, Assemblyman Jim Costa's staff - E. Maita, and the various segments of the commercial fishing industry. The bill, if signed, is an important first step to developing a sound fund...

mechanism for the Department of Fish & Game. It now opens the door for discussions on revisions of the landing tax, a possible tax on imports; discussions with sportfishing, hunting, and environmental organizations on some forms of alternative funding for the Department; and discussions with the Administration about lifting the hiring freeze on the Department.

In summing up the importance of AB 3081 after its passage, Assemblyman Hauser stated the attempt to levy and collect back taxes "would have been devastating to our North Coast fishermen, already staggering under reduced and closed commercial seasons. That's why", Hauser said, "we amended the Felando bill to supersede the Attorney General's opinion. The tax as interpreted by the Attorney General's office would only have applied to California fish and not to fish from other states or nations, thereby further hurting our state fisheries."

"Our fishing industry believed it was paying the correct taxes for over 50 years. For one opinion to arbitrarily overturn the state's long standing practice was simply unfair, unjust and unwise", Hauser concluded.

For more on California Legislation, see "Sacramento Happenings" in this issue's insert.

MONTEREY FISH DEALER CONVICTED FOR UNDER-REPORTING LANDINGS

Cappuccio Incorporated, doing business as U.S. Freezer Company, has been convicted in Monterey Superior Court for underreporting landings of squid to fishermen and the Department of Fish & Game. The conviction followed a lengthy investigation brought by the Department.

The figures acknowledged by Frank Cappuccio of U.S. Freezer Company amounts to an unreporting of a total of 466,475 pounds of squid, including 295,308 pounds for 11,812 buckets in 1979, and 171,175 pounds for 6,847 buckets in 1980. The court found that "multiplying the buckets by the unrecorded weight and by thirteen cents, the price paid for squid, gives the figure of \$68,641.75."

The total civil penalty against U.S. Freezer Company was \$73,528.05 which included, in addition to the amounts not paid fishermen, \$866.30 for

landing taxes avoided, and \$12,000 for the Department's investigative costs. The investigation and conviction is seen as evidence of the Department's determination to collect landing taxes owed the Department.

PFMC MEETING

The Pacific Fishery Management Council will meet 15-18 September at the Metro Center, 2000 S.W. First Avenue in Portland. The Scientific & Statistical Committee (SSC) will begin meeting on Monday, the 15th. The Habitat Committee will meet on Tuesday, the 16th, to consider habitat matters including a draft to the habitat section for the salmon fishery management plan. The Council itself begins meeting on Wednesday.

Wednesday, 17 September, 10:00 a.m.

- A. Call to Order
- B. Administrative Matters
- C. Groundfish "Management"

1. Review of Current Groundfish Landings and Projections
2. Preliminary Estimates of Acceptable Biological Catch (ABC), Optimum Yield (OY), and Harvest Guidelines (HG)
3. Preliminary Specifications of Domestic Annual Harvest, Domestic Annual Processing, Joint Venture Processing, and Total Allowable Level of Foreign Fishing
4. Review Definition(s) of ABC and its Relationship to OY and HG
5. Second Draft Amendment to the Groundfish Fishery Management Plan (FMP)
6. Groundfish Enforcement Technical Amendment Issues - ACTION
7. "Scoping" Session for Amending the Groundfish FMP in 1988
8. Groundfish Alternative Management (GAM) (Limited Access)
9. Conditions on Foreign Fishing Permits to Further Objectives of the Magnuson Fishery Conservation and Management Act
10. Experimental Fishing Permit Applications for Soufflé Strait - ACTION

"Tyranny, like hell is not easily conquered"

- Louis Brandeis

STATEMENT
FOR
LEGISLATIVE INTERIM COMMITTEE HEARING
BIG GAME DRAWINGS/X5B AUDIT

PRESENTED BY

EDWARD O. WILLIS
ASSISTANT DIRECTOR, ADMINISTRATION
DEPARTMENT OF FISH AND GAME

MEMBERS OF THE COMMITTEE, MY NAME IS ED WILLIS, ASSISTANT DIRECTOR FOR ADMINISTRATION.

ONE OF THE MANY RESPONSIBILITIES OF THE LICENSE AND REVENUE BRANCH IS THE DISTRIBUTION OF DEER, AND OTHER BIG GAME TAGS. AS MR. HUNT INDICATED IN HIS STATEMENT, LEGISLATION WAS ENACTED WHICH AUTHORIZED THE DEPARTMENT AND THE FISH AND GAME COMMISSION TO MANAGE THE DEER RESOURCE ON A HERD BY HERD BASIS AND TO REGULATE THE NUMBER OF HUNTERS IN ORDER TO MEET THE OBJECTIVES OF DEER HERD MANAGEMENT PLANS. THIS RESULTED IN THE ESTABLISHMENT OF THE "QUOTA" CONCEPT WHICH HAS BEEN APPLIED TO ALL HUNTING ZONES EXCEPT ZONE "A", WHICH IS KNOWN AS THE COASTAL ZONE.

DEER QUOTAS, WHICH ARE SET BY THE FISH AND GAME COMMISSION, ARE THE PRIMARY BASIS FOR DETERMINING IF DRAWINGS ARE NECESSARY. IF THE NUMBER OF APPLICATIONS SUBMITTED FOR A DEER ZONE EXCEEDS THE QUOTA FOR THAT ZONE, A DRAWING MUST BE CONDUCTED IN ORDER TO DETERMINE WHICH HUNTER WILL BE ALLOWED TO HUNT IN ANY GIVEN YEAR. THIS YEAR, SIXTY-NINE TOTAL DRAWINGS WERE HELD. THE DRAWINGS WERE CONDUCTED AT OUR HEADQUARTERS OFFICE AND APPROXIMATELY 250 MEMBERS OF THE PUBLIC WERE PRESENT.

SINCE THE FIRST DRAWINGS WERE HELD BACK IN 1979, THERE HAS BEEN INCREASING CONTROVERSY OVER THE MANNER IN WHICH THE DRAWINGS ARE CONDUCTED. THIS YEAR, COMPLAINTS TO LEGISLATORS FROM HUNTERS REGARDING THE X5B DRAWINGS, DREW MEDIA CRITICISM, AND RESULTED IN AN AUDIT BY THE OFFICE OF THE AUDITOR GENERAL. THE AUDIT ADDRESSED ISSUES RAISED BY HUNTERS ALLEGING THAT THE DRAWINGS WERE NOT RANDOM AND THAT THE SAME INDIVIDUALS WERE RECEIVING TAGS FOR ZONE X5B YEAR AFTER YEAR.

THE AUDITOR GENERAL NOTED SOME IRREGULARITIES IN 1985. THOSE ARE CURRENTLY UNDER FORMAL INVESTIGATION TO DETERMINE WHETHER OR NOT ANY ILLEGAL ACTS OCCURRED. HOWEVER, I AM HAPPY TO BE ABLE TO REPORT TODAY, THAT OVER-ALL THE AUDIT RESULTS SHOW THAT THE DRAWINGS ARE EQUITABLE AND THAT SINCE THE DEVELOPMENT OF NEW PROCEDURES IN 1986, THERE WERE NO NEGATIVE FINDINGS. THE AUDIT RESULTS ALSO SHOW THAT WHILE STATISTICALLY, THERE IS A PROBABILITY THAT INDIVIDUALS CAN BE DRAWN IN CONSECUTIVE YEARS, THE DEPARTMENT HAS ACTUALLY ISSUED TAGS IN CONSECUTIVE YEARS LESS THAN THE EXPECTED STATISTICAL PROBABILITY.

ASIDE FROM THE ISSUES SURROUNDING THE X5B DRAWING, WHICH IS THE MOST POPULAR ZONE IN THE STATE, THE DEPARTMENT HAS BEEN ADDRESSING OTHER CONCERNS RELATED TO THE CURRENT MANUAL SYSTEM OF CONDUCTING THE DRAWINGS. IT IS CLEAR TO US THAT AUTOMATING BOTH THE BIG GAME AND WATERFOWL DRAWINGS IS NECESSARY. DESPITE THE FACT THAT WE HAVE SIGNIFICANTLY IMPROVED OUR PROCEDURES, WE RECOGNIZE THAT GREAT EFFICIENCIES CAN BE REACHED THROUGH AUTOMATION OF THE ENTIRE PROCESS. AS I INDICATED IN EARLIER TESTIMONY TODAY, A LICENSING TASK FORCE WAS APPOINTED IN FEBRUARY OF THIS YEAR. THE TASK FORCE IS EVALUATING

AND BEGINNING THE STEPS TO ACCOMPLISH FULL AUTOMATION OVER THE NEXT TWO YEARS. IF THE DEPARTMENT IS SUCCESSFUL IN OBTAINING THE NECESSARY BUDGETARY AND FEASIBILITY STUDY REPORT APPROVALS FROM THE DEPARTMENT OF FINANCE, THIS TIMEFRAME IS REALISTIC.

THE TASK FORCE HAS EVALUATED AUTOMATED SYSTEMS IN OTHER STATES AND THEIR RECOMMENDATIONS ARE DUE IN DECEMBER OF THIS YEAR. AT THIS POINT WE ARE EXTREMELY OPTIMISTIC AND ARE EAGER TO MOVE FORWARD.

IN CLOSING, I WISH TO SAY THAT SERVICING OUR SPORT LICENSE BUYERS IS A TOP PRIORITY AND WE ARE PROUD OF THE PROGRESS WE HAVE MADE IN RECENT YEARS. THE DEER TAG APPLICATION AND DRAWING PROCESS MAY SEEM COMPLEX TO SOME, BUT IT DOES PROVIDE A SUITABLE AND EQUITABLE MEANS FOR REGULATING HUNTER PRESSURE WHICH IS CRITICAL TO THE CONTINUATION OF OUR WILDLIFE RESOURCES.

WE HAVE A CHART DESCRIBING THE DRAWING PROCESS. AT THIS POINT, OLGA CARMICHAEL, CHIEF OF THE LICENSE AND REVENUE BRANCH, WILL EXPLAIN THE DRAWING PROCESS CURRENTLY UTILIZED BY THE DEPARTMENT AND THE NEW PROCEDURES INSTALLED DURING 1986.

STATEMENT
FOR
LEGISLATIVE INTERIM COMMITTEE HEARING
AB 2436

PRESENTED BY

EDWARD O. WILLIS
ASSISTANT DIRECTOR, ADMINISTRATION
DEPARTMENT OF FISH AND GAME

MEMBERS OF THE COMMITTEE, MY NAME IS ED WILLIS, ASSISTANT DIRECTOR,
ADMINISTRATION.

THE LICENSE AND REVENUE BRANCH OF THE DEPARTMENT OF FISH AND GAME IS
RESPONSIBLE FOR THE COLLECTION OF LICENSE REVENUES ESTIMATING OVER 50 MILLION
DOLLARS ANNUALLY. LICENSES ARE SOLD FROM DEPARTMENT OFFICES AND FROM SOME
2571 BUSINESS OUTLETS KNOWN AS LICENSE AGENTS WHICH ARE LOCATED THROUGHOUT THE
STATE OF CALIFORNIA.

THERE HAS BEEN MUCH CONTROVERSY IN RECENT YEARS REGARDING THE OPERATION AND
MANAGEMENT OF THE LICENSE AND REVENUE BRANCH. PROBLEMS, STEMMING LARGELY
FROM AN ANTIQUATED SYSTEM OF MANAGING LICENSE AGENT ACCOUNTS, HAVE BEEN
IDENTIFIED BY THE DEPARTMENT AND THE LEGISLATURE AND HAVE BECOME THE SOURCE OF
CONSIDERABLE MEDIA AND LEGISLATIVE ATTENTION. AS A RESULT, FIVE DIFFERENT

REVIEWS AND AUDITS HAVE BEEN CONDUCTED OVER THE LAST THREE YEARS BY THE DEPARTMENT OF FINANCE, THE LEGISLATURE AND THE OFFICE OF THE AUDITOR GENERAL. ADDITIONALLY, THE DEPARTMENT CONTRACTED WITH THE DEPARTMENT OF FINANCE TO ASSIST IN EFFORTS TO DEVELOP PROCEDURES DESIGNED TO ENSURE COMPLIANCE WITH STATE ADMINISTRATIVE REQUIREMENTS AND ACCEPTABLE ACCOUNTING PRINCIPLES.

SINCE THE INITIAL MEDIA ACCOUNTS, ALLEGING POOR COLLECTION PROCEDURES IN LATE 1984, MANY POSITIVE STEPS HAVE BEEN TAKEN TO IMPROVE THE OVER-ALL OPERATION OF THE LICENSE AND REVENUE BRANCH. A SYSTEMATIC NOTICING AND COLLECTION PLAN WAS DEVELOPED AND IMPLEMENTED IN 1985. THIS SYSTEM BASICALLY NOTICES LICENSE AGENTS IN 30 DAYS IF A REPORT AND FEES DUE HAVE NOT BEEN SUBMITTED. IF THE AGENT DOES NOT SUBMIT A REPORT IN 60 DAYS, A SECOND NOTICE IS DELIVERED BY A FISH AND GAME WARDEN, WHO TAKES AN INVENTORY OF THE ACCOUNT AND MAKES A DEMAND FOR PAYMENT OF SOLD LICENSES, AND MAY ISSUE A CITATION. THE SYSTEM ALSO PRODUCES A 90-DAY NOTICE WHICH FORMALLY CLOSES THE ACCOUNT. IN ADDITION TO OUR 30-60-90 DAY PLAN, A MONTHLY LICENSE AGENT NEWSLETTER WAS INSTITUTED TO IMPROVE COMMUNICATIONS; A VARIETY OF PROCEDURES WERE DEVELOPED IN CONJUNCTION WITH THE DEPARTMENT OF FINANCE TO STRENGTHEN COMPLIANCE WITH ACCOUNTING PRACTICES AND PRINCIPLES; A PROFESSIONAL LEVEL ACCOUNTANT WAS HIRED TO INCREASE ACCOUNTING EXPERTISE; A TWO-YEAR PLAN IDENTIFYING PROBLEMS AND SUGGESTING SOLUTIONS WAS WRITTEN TO PROVIDE A CORRECTIVE PLAN OF ACTION; AND A VERY IMPORTANT PIECE OF LEGISLATION SPONSORED BY ASSEMBLYWOMAN ALLEN WAS PASSED ON SEPTEMBER 30, 1985. THAT LEGISLATION WAS AB 2436 (CHAPTER 1310 OF 1985).

THIS LEGISLATION, WHICH IS ONE OF THE ITEMS UP FOR DISCUSSION TODAY, MADE SWEEPING CHANGES TO THE MANNER IN WHICH LICENSE AGENTS REPORT LICENSE SALES AND REMIT FEES COLLECTED.

SPECIFICALLY, THE REQUIREMENTS INCLUDED:

- * THE ASSESSMENT OF INTEREST AND PENALTIES, ON LICENSES SOLD IF REPORTED LATE
- * INCORPORATION OF THE LICENSE AGENT HANDLING FEE, INTO THE PRICE OF EACH LICENSE.
- * LIMITING LICENSE BOOK VALUES, TO NO MORE THAN THE COST OF 20 RESIDENT FISHING LICENSES.
- * MONTHLY REPORTING OF LICENSES SOLD AND FEES COLLECTED, BY THE 20TH OF EACH MONTH.
- * THE COMPLETE SALE OF ONE BOOK OF LICENSES, BEFORE GOING TO ANOTHER.
- * THE REPORT OF LOSSES WITHIN 24 HOURS.
- * A MANDATORY BOND FOR ALL NEW LICENSE AGENTS, EQUAL TO THE TOTAL CONSIGNMENT VALUE OF LICENSES.
- * THE REPORTING OF EXPIRED LICENSES 60 DAYS FROM EXPIRATION DATE, OR PAYMENT AT FULL VALUE OF LICENSES, WHETHER OR NOT THEY WERE SOLD.
- * THE OPTION TO PURCHASE LICENSES UPFRONT.
- * MONTHLY STATUS REPORTS TO THE DEPARTMENT OF FINANCE.

* THREE AUDITS, CONDUCTED BY THE AUDITOR GENERAL, TO REVIEW IMPLEMENTATION OF BILL PROVISIONS.

* A REVIEW BY THE DEPARTMENT OF FINANCE, TO EVALUATE OTHER ALTERNATIVES TO THE CURRENT SYSTEM OF DISTRIBUTING LICENSES.

I WILL NOW HIGHLIGHT SOME OF THE PROBLEMS ADDRESSED BY AB 2436, AND THE ACTIONS WHICH HAVE BEEN TAKEN TO SOLVE THEM.

PROBLEM: THERE WAS SLOW REPORTING OF MONTHLY SALES AND THE DEPARTMENT WAS LOSING INTEREST EARNINGS.

ACTION: NOW, PENALTIES AND INTEREST ARE ASSESSED, IF REPORT AND FEES ARE NOT SUBMITTED MONTHLY. OVER \$193,000 HAS BEEN COLLECTED TO DATE.

PROBLEM: THERE WERE POOR COLLECTION PROCEDURES.

ACTION: LICENSE SHIPMENTS ARE NOW HELD, IF REPORTS ARE NOT SUBMITTED.

PROBLEM: THERE WERE HIGH INVENTORIES OF LICENSES BY SOME AGENTS, WITHOUT ADEQUATE BOND COVERAGE.

ACTION: NOW, ALL NEW LICENSE AGENTS ARE REQUIRED TO BOND FOR FULL VALUE OF LICENSES CONSIGNED.

PROBLEM: THERE WAS LITTLE PROTECTION AGAINST LOSS FROM VETERAN LICENSE AGENTS, WITH NO BOND.

ACTION: BONDS FOR FULL VALUE OF LICENSE CONSIGNMENT ARE NOW REQUIRED OF AGENTS WHO DO NOT REPORT TIMELY.

PROBLEM: EXPIRED YEAR LICENSES WERE HELD BY LICENSE AGENTS.

ACTION: NOW, PAYMENT OF ALL LICENSES IS REQUIRED, IF NOT RETURNED TIMELY, WHETHER OR NOT THEY WERE SOLD.

PROBLEM: AGENT LOSSES DUE TO FIRE/THEFT WERE NOT REPORTED TIMELY.

ACTION: NOW, ALL LOSSES MUST BE REPORTED WITHIN 24 HOURS OF LOSS.

ALL REQUIREMENTS OF THIS LEGISLATION HAVE NOW BEEN IMPLEMENTED AND THE DEPARTMENT HAS RECENTLY SUBMITTED A FEASIBILITY STUDY REPORT TO THE DEPARTMENT OF FINANCE WHICH WILL RE-DESIGN AND FULLY AUTOMATE THE CURRENT LICENSE AGENT ACCOUNTING SYSTEM. ASSUMING APPROPRIATE APPROVALS FROM THE DEPARTMENT OF FINANCE, THE DESIGN WORK IS SCHEDULED TO COMMENCE IN THE EARLY PART OF 1988 AND IMPLEMENTATION SHOULD BE FULLY ACCOMPLISHED BY JANUARY OF 1989. THIS SYSTEM WILL ENABLE US TO RECONCILE LICENSE AGENT ACCOUNTS MORE EFFICIENTLY; PRODUCE TIMELY MANAGEMENT REVENUE REPORTS; TRACK LICENSE CONSIGNMENTS BY SERIAL NUMBERS AND GENERALLY IMPROVE OUR SERVICE TO LICENSE AGENTS AND OUR LICENSE BUYING PUBLIC.

I WISH TO POINT OUT THAT WHILE WE RECOGNIZE THAT SOME WORK STILL REMAINS TO BE DONE WITHIN THE LICENSE AND REVENUE BRANCH, THE OVERWHELMING MAJORITY OF THE PROBLEMS RELATED TO PROTECTING THE DEPARTMENT'S REVENUE HAVE BEEN SOLVED. A SIGNIFICANT AMOUNT OF PROGRESS HAS BEEN MADE AS ILLUSTRATED IN THE SUMMARY OF PROBLEMS, WHICH WAS ADDRESSED BY ASSEMBLYWOMAN ALLEN'S LEGISLATION, AND THE DEPARTMENTS EFFORTS TO MODERNIZE THE EXISTING SYSTEM. WE HAVE TAKEN ANOTHER STEP TO IMPROVE OUR LICENSE ISSUANCE AND DISTRIBUTION SYSTEM. THE DIRECTOR APPOINTED THE LICENSING TASK FORCE IN FEBRUARY OF THIS YEAR TO REVIEW AND EVALUATE THE FOLLOWING ISSUES:

- o SIMPLIFYING THE CURRENT LICENSE FORMATS
- o DEVELOPING A DATA BASE OF LICENSE BUYERS
- o AUTOMATING BIG GAME AND WATERFOWL DRAWINGS
- o DEVELOPING A "12" MONTH LICENSE

THE TASK FORCE RECOMMENDATIONS ARE DUE IN DECEMBER OF THIS YEAR.

RECENT AUDIT REPORTS BY THE AUDITOR GENERAL, WHICH EVALUATE OUR PROGRESS IN IMPLEMENTING THE PROVISIONS OF AB 2436, PRIMARILY ADDRESS CONFLICTS IN THE INTERPRETATION OF THE LEGISLATION --- AND NOT DEPARTMENT COMPLIANCE WITH THE INTENT OF THE LEGISLATION. ALSO, THE AUDITOR GENERAL RECOGNIZES THE SIGNIFICANT IMPROVEMENTS IN OUR LICENSING OPERATION.

IN CLOSING, AS A RESULT OF DEPARTMENTAL EFFORTS AND THE IMPLEMENTATION OF AB 2436, THE FISCAL INTEGRITY OF THE LICENSE AND REVENUE BRANCH IS MUCH MORE SOUND. IN ADDITION, PLANNED AUTOMATION WILL INCREASE OVER-ALL EFFICIENCY.

IF THE COMMITTEE HAS ANY QUESTIONS OR WISHES ADDITIONAL DETAIL, OLGA CARMICHAEL, CHIEF OF THE LICENSE AND REVENUE BRANCH OR MYSELF ARE PRESENT TO HELP IN ANY WAY WE CAN. THANK YOU FOR THIS OPPORTUNITY TO SPEAK ON BEHALF OF THE DEPARTMENT OF FISH AND GAME.



Board of Supervisors

Room 101, Courthouse Annex
Susanville, California 96130
(916) 257-8311

Supervisor John R. Gaither

Third District
713-260 Sears Rd.
Janesville, CA 96114

TESTIMONY: JOINT HEARING REGARDING THE MANAGEMENT
OF THE DEPARTMENT OF FISH AND GAME

Mr. Chairman and Committee Members,

I will be testifying on three different items at these hearings: The issuance of X-5B deer tags, Private Lands Management (PLM), and the Deer Herd Management Program. I believe that these are really not different issues but simply separate parts of the same issue, the mismanagement of our wildlife and our natural resources by the Department of Fish and Game (DFG). I believe that management is a total concept which must include all aspects and all the variables of an issue. I am sure that you will find, as I have, that the DFG has ignored the most important part of management. WE THE PEOPLE!!!

I have no doubt that you legislators are more keenly aware than most that any law which you pass must be acceptable to the people as a whole or it will not work. It will be ignored or, in the worst case, it will be openly flaunted. This is the case in Lassen County. Many residents of whom I have asked the question, "Which deer zone did you get this year?" reply with "C-1". This means see-one, shoot-one. In some cases the response is, "I don't buy tags anymore, I just go hunting". I even had one ranch manager tell me that one year he didn't get drawn and he doesn't believe in poaching so he "penalized Fish and Game two deer". I realize that his may sound like we are just a bunch of outlaws or that we are going to get ours one way or the other. It's not true. A lot of these people have lived and hunted all their lives in Lassen County and feel that they have a right to hunt on their own land or in their own backyard. I support this wholeheartedly because I am a small land owner with only 5 acres of alfalfa and I can't hunt in my back yard unless I get lucky.

I sincerely hope that out of these hearings will come legislation which will correct the inequities that now exist in the Department of Fish and Game. I would now like to address the issuance of X-5B tags.



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Room 101, Courthouse Annex

Susanville, California 96130

(916) 257-8311

Supervisor John R. Gaither

Third District

713-260 Sears Rd.

Janesville, CA 96114

TESTIMONY: ISSUANCE OF X-5B TAGS

1. Fairness, equality and morality.

- a. I has never been applied fairly or properly.
- b. Local residents and landowners are discriminated against because we live there.
- c. Some hunters are drawn year after year.
- d. Some of these repeat hunters say, "It's who you know in Sacramento".
- e. Poaching has increased.

2. The quota system.

- a. First started in X5-B as a test and was immediately declared a success.
- b. The quota system as applied is not supported by DFG's own studies.

- 1) Attachment 1 - Goals of 1982 East Lassen Plan.
- 2) Attachments 2 and 3 - Buck/fawn ratio 1977 DFG study.
- 3) Attachment 4 - Herd composition 1982 East Lassen Plan.
- 4) Attachment 5 - Buck/doe 1964 Doyle herd study.
- 5) Attachment 6 - Buck/doe 1982 East Lassen plan.

3. Economic impacts.

- a. 85-90% reduction in hunters (tourists).
- b. Businesses have folded.
- c. Unemployment has increased.
- d. 2-4 million dollars annually have been taken out of our economy.
- e. We don't want everyone from the flatlands to come to Lassen County, but we would like to see more than we now have.

4. Recommendations.

- a. Allow people to hung in the zone in which they live.
- b. Increase the number of tags to at least 1500 in X5-B.
- c. Limit vehicle access.
- d. Require DFG to computerize drawings.
- e. "Bite the Bullet" quotas.



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TESTIMONY: PRIVATE LANDS MANAGEMENT

1. It's a great concept, but,
 - a. Landowners should never be allowed to see the animals;
 - b. All tags should be made available to all hunters by a public drawing;
 - c. Land access fees should be set by the DFG;
 - d. Habitat costs should be born by DFG through increased in tag fees;
 - e. Other states have programs but nothing like this.
2. The current PLM programs in Lassen County have created havoc with the local sportsmen.
 - a. With the quota system, if we don't get drawn we can't hunt unless we leave the county. We can't even hunt on our own land unless we own 640 acres (1 sq. mile).
 - b. Public lands are being posted.
 - c. Armed guards are patrolling fences.
 - d. PLM ranches hunt after the regular season when deer are in the rut (Attach. 1).
 - e. Access to public lands are being closed off.
 - f. Poaching is increasing dramatically.
3. The future of PLM in Lassen Count.
 - a. If allowed to continue it will destroy public deer hunting.
 - b. Local poaching will continue to increase.
 - c. PLM ranches will over exploit the deer herds.



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TESTIMONY: DEER HERD MANAGEMENT PLAN

I could talk for hours on this issue and I know you don't want that!!! As I stated yesterday the management of our deer herd must be a total concept. In order to manage our deer herds all facts and factions must be considered and listed to. The biologist that is trained in wildlife has knowledge and facts which are important and the cattleman that has lived, worked, and road on horseback the forests and deserts have knowledge and facts which are just as important.

The deer herds in California are as diverse in habitat as the counties where they live. If you read the management plans that the DFG has formed you read a lot of the same material. Yet the location and circumstances have changed.

The DFG appears to use the "fits-all" method of management. Quotas may be a very useful tool in some areas but are ridiculous in others. PLM of one type may work well in a county with very little public lands but in a county like Lassen it may not work at all.

What I am suggesting is more local input and control over programs which affect us directly. I don't think for a minute that we should have total control but neither should the DFG. They should be required to get local input and approval which will act as a check and balance. to the awesome power that they now wield. We were told by DFG personnel that the BLM program was a legislative mandate and we could do nothing about it. I have watched as the DFG has turned rancher after rancher, resident after resident and hunter after hunter against them. It must end and I sincerely hope that these hearings are the beginning of that end.

DEER HUNTING ZONE X-5b
SUMMARY
October 1987

In 1977, the Legislature enacted changes in the deer management statutes which mandated that the Department of Fish and Game manage deer on a herd-by-herd basis. It also authorized the Fish and Game Commission to regulate hunter numbers with the intent to provide high quality, diversified use of deer in an orderly and safe manner. These changes were warranted since crowded hunting conditions in some popular areas, particularly northeastern California, had resulted in critically low buck numbers, low hunter success and poor quality hunting experiences for many individuals.

Eastern Lassen County was a prime example of the problem. In the late 1970's, the buck to doe ratio was as low as 3-5 bucks per 100 does. This level is approaching the point where reproductive failure may occur. Hunter success was approximately 5 percent. The popular hunting areas were crowded with competition between hunters resulting in a high rate of illegal activity including the take of forked horn bucks despite the three-point buck restriction. These conditions prevented the Department from meeting reasonable objectives for herd management.

In 1979, pursuant to specific legislative authority, the Commission adopted the state's first quota deer hunting zone (X-5b) in eastern Lassen County. It restricted deer hunting in this zone to 500 individuals where as many as 3,500 hunters previously concentrated their effort. That action marked the initial step in linking deer herd management to hunting regulations in an effort to address problems and improve conditions for both deer and the hunting public. Both buck to doe ratios and hunter success responded immediately. In 1986, the buck ratio was 24 per 100 does and the hunter success rate was 51 percent. Obviously, fewer individuals had the opportunity to hunt the subject area, however, the random public drawing equitably allocated these extremely popular permits. Hunter success has ranged from approximately 45-60 percent since 1979.

The following information summarizes the annual quota which is adjusted in an effort to maintain a buck ratio of 20-25 bucks per 100 does in the post-season population:

<u>Year</u>	<u>Quota</u>
1979	500
1980	500
1981	500
1982	600
1983	600
1984	600
1985	650
1986	500
1987	640

In general, creating a restrictive quota on hunters in Zone X-5b has accomplished its intended objectives which were developed as a result of the legislative mandate to provide for healthy deer herds and high quality diversified use of our deer resources. Most hunters support the herd or zone management concept. The benefits of a hunter quota in Zone X-5b are obvious. Sex ratio of the herd, hunter success, quality of the recreational experience and the rate of hunting regulation violations have all been positively affected.



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STATE OF CALIFORNIA
Office of the Auditor General

Thomas W. Hayes
Auditor General

660 J STREET, SUITE 300
SACRAMENTO, CA 95814

October 26, 1987

P-747

Honorable Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

We reviewed the Department of Fish and Game's (department) program for issuing deer hunting tags in Zone X5b, which is located in the mid-eastern part of Lassen County. During the 1987 public drawing for deer hunting tags, the department followed its procedures for distributing tags for Zone X5b. In addition, we found that from calendar year 1984 through calendar year 1987, the number of applications for deer hunting tags exceeded the quota for tags established by the Fish and Game Commission (commission) by approximately 13 to one. However, while reviewing the department's records of deer killed in Zone X5b for 1985, we found that the department had issued 17 more deer hunting tags than were issued at the public drawing. According to the acting director of the department, as a result of our review, the department has initiated a departmental investigation to determine if illegal activities took place and to proceed with appropriate legal action if there is sufficient evidence to do so. The preliminary investigation disclosed that in 1985 there were irregularities in the department's distribution of 10 of the 17 deer hunting tags that we questioned. The chief of the Licensing and Revenue Branch stated that the department implemented formal procedures in 1986 for controlling the number of deer hunting tags issued after the public drawing. Finally, although we received allegations that some hunters had obtained deer hunting tags for Zone X5b for the last six years, our review did not substantiate the allegations.

October 27, 1987

Dear Sirs,

I am representing a lot of good, honest working people in opposition to Ranch for Wildlife Program 580.

We feel that this is a bad program and will do nothing to help the deer herds especially on public lands or the general hunting public. Some ranches on this program are on migration trails.

We protest the selling of deer, some ^{thing} that belongs to the people. Some prices as high as \$3,250. It is nothing more than a gun club for the rich.

They are hunting just for the heads. There are abuses of this program such as chumming deer out into the open with apples, taking deer for their heads and giving away spoiled meat, inflating deer counts, improper fencing. The improper fencing was told by a Department of Fish & Game Warden, Bryan Piccoli, at a Humboldt Wildlife Advisory Board meeting which I attended. The other abuses were told by a neighboring ranch to one of the participants of the Ranch for Wildlife. His phone number is (707) 839-3462.

We mostly protest the participants of this programs right to setting their own dates for hunting as they are doing it during the rutting of the bucks when they are vulnerable. If this program will work, it will work during the season set by the Fish and Game Department.

The one rancher in my area on this program admitted to me the bottom line was money. I would like to know where the deer benefit from this program. We have no habitat problem in Northern California. Letting ranches set their own dates for hunting is a poor incentive to participate.

I am afraid that now that this program has been known and for what it is you have opened a can of worms. You will make illegal hunters out of a lot of honest hunters. No one group should have special privileges when it comes to our deer.

If this program is so good, why isn't it being done on public lands, and why did it take so long to think of it? Please don't give us the lack of money for public lands. Our hunting licenses and tags are \$40.00 now. Is it all going for wages? If it is, we are not getting what we pay for.

I am afraid the deer hunting will go the way pheasant hunting went after it was turned over the the ranches.

This program was slipped by us before we ever heard of it. I went to a Humboldt Wildlife Advisory Board meeting to protest this program and no one on the advisory board had even heard of it including the President of the Board, nor Assemblyman Dan Hauser. When he received my letter, he said he was not familiar with the program and would get back to me. They are the people who should know this.

Nobody that matters knew about this program until a few months ago, and I believe that is the way it was planned. Well now we know and this is just the beginning of this protest. I hope we can find out who backs this bill and voted for it so that the thousands of hunters and concerned citizens who oppose the program can remember them at voting time.

Page 2

I could go on and on with good reasons to stop this ridiculous program, but this will be a good start. Stopping this program will be the will of the majority of people.

Thank you,

Harvey Baird

Harvey Baird

NORTH STATE SPORTSMEN'S COALITION

PO Box 248

Montague, CA 96064

(916) 459-5142

(916) 459-3702

TESTIMONY: Assembly Committee On Water, Parks, and Wildlife Hearing
on the Department of Fish and Game

RE: Private Land Management Programs

Numerous Department of Fish and Game representatives have attended a number of sportsmen's meetings throughout the North State claiming that legislation in Article 5, Section 3406, of the Fish and Game Code of California gives the department authorization to supersede previous legislation throughout the Fish and Game Code pertaining to the P.L.M. Programs. Attorneys in which our sportsmen have consulted surmise that unless section 3406 specifies a section of the code it is to supersede, which it does not, it holds no validity regarding the codes within this testimony.

Anterless hunts are being condoned in the majority of the Ranch For Wildlife Programs. Section 458 of the Fish and Game Code of California dictates that the department must notify, by certified mail, the board of supervisors of each county effected by the recommendations of anterless hunts no later than January 15th and the supervisors may elect to hold a public hearing regarding those recommendations. The Siskiyou County Board of Supervisors, and other North State supervisors, have not received notice of such proposed hunts in P.L.M. Programs since they have been implemented in their counties.

Section 459 of the code dictates the department shall not recommend to the commission, and the commission shall not authorize, the taking of anterless deer in a county if it has received from the board of supervisors of that county a resolution objecting to such taking. Individual letters of support from four Siskiyou County Board of Supervisors (Copy Supplied) were submitted supporting recommendations (Copy Supplied) in packets from the North State Sportsmen's Coalition denying anterless hunts in the North State at the Fish and Game Commission Hearings regarding furbearing mammal regulation in April 1987. In September 1987 a resolution (Copy Supplied) was submitted to the Department of Fish and Game, Sacramento office, from the Siskiyou County Board of Supervisors which backed a resolution from the Siskiyou County Fish and Game Commission (Copy Supplied) denying anterless hunts in that county. The department is presently proposing additional anterless hunts in Siskiyou County through the P.L.M. Programs.

Sections 326 and 327, of the Code, also dictates that provisions regarding proposed special hunts encompassing species, other than deer, must succumb to the same legislative procedures described in Section 452 of the code. The P.L.M. Programs allow special hunts for antelope, bear, and etc. The Siskiyou County Board of Supervisors were not notified by the Department of Fish and Game of intentions of such hunts on the Prather or Moffett Creek Ranches prior to the implementation of their programs.

Pg. 2

North State Sportsmen's Coalition

Testimony: Assembly Committee on Water, Parks, and Wildlife

Hearing on the Department of Fish and Game

RE: Private Land Management Programs

Sportsmen in Siskiyou County contend the Prather and Moffett Creek Ranches, participants of the programs, are in violation of county zoning codes. The ranches are conducting a business of marketing wildlife in areas zoned for agriculture or residential agriculture (Copy Supplied-Moffett Creek Ranch). It is assumed that both ranches are also in violation of County Code Article 49, Section 10-6.4903, Conditional Uses Permitted (Copy Supplied). Attorneys have suggested such a precedent in county code violations are being conducted by the department, in authorizing the programs, and participating landholders in other Northern California counties. Landholders operating under the programs should not be exempt from laws in which the rest of the county citizens must comply.

The Ranch For Wildlife Programs are in violation of Chapter 5, Sections 451 and 452, Management of Deer. Section 451 dictates there is to be a general deer hunting season, meaning an annual season, for an area in question. Therefore, extended seasons set within that area should be construed as an illegal season. For Example: Zone X-1 season is scheduled from October 3rd through October 17th, the general season for that area/zone. The Prather Ranch, a small section of that zone continues the season on the ranch beyond the expiration date of the season for the zone. The landholder is in violation of Section 451 of the Fish and Game Code and the State Fish and Game Commission and the Department of Fish and Game have violated the code in authorizing such a hunt.

Section 452, of the Code, dictates that deer must be managed in Units encompassing a single deer herd or group of deer herds having similar management characteristics. Participants of the P.L.M. Programs hold extended seasons and special hunts, are in fact, managing deer within a managed herd, a small portion of the herd is being harvested from the overall populus of the herd. The Siskiyou County Board of Supervisors submitted resolutions (Copies Supplied) defying such practices which were submitted at the State Fish and Game Commission Hearings regarding furbearing mammal regulations by the Siskiyou County Sportsmen's Association in 1986 and by the North State Sportsmen's Coalition in 1987. Recently the Siskiyou County Board of Supervisors submitted another resolution (Copy Supplied) supporting the actions of the Siskiyou County Fish and Game Commission going on record (copy Supplied) defying extended hunting seasons and antlerless hunts in that county. Other clear violations of this legislative section are the different antler points legally taken and doe hunts. Example: Zone X-1 is a three point zone with no doe taken during the general season. Hunts on the Prather Ranch allow the taking of two points and doe. Again, the department is allowing a portion of the herd to be managed separately. The State Fish and Game Commission and the Department of Fish and Game are in violation of Section 452 of the Code for authorizing such hunts.

Pg. 3

North State Sportsmen's Coalition

Testimony: Assembly Committee On Water, Parks, and Wildlife
Hearing on the Department of Fish and Game

RE: Private Land Management Programs

Other factors of concerns relating to the programs are numerous. The fact that landholders participating in the programs are authorized the sale of harvest permits prior to proving their capability in fullfilling the obligations in the legislative guildlines is very disturbing. Sportsmen of the North State have witnessed a vast decline of harvestable bucks over recent years. To allow the taking of the species during the rut season and allowing antlerless hunts prior to establishing a plentiful and healthy herd(s) is not only an irresponsible act against the species but also against the citizens of this state.

In accordance with the State Constitution, the wildlife of this state belongs to the people of the state. Landholders, State Agencies, and weathy participates of the state do not have the legal right to authorize, or harvest, from the migratory deer herds through special seasons, or programs, for moneymental or personal gains. The harvest from the state's deer herds must be done in such a manner that is affortable and available to all citizens of the state.

There are no legislative restrictions regarding the number of land sections any one landholder can place into the programs at a given time. Much of the North State land is owned by large corporations. Rumors indicate that the Fruitgrowers Corporation and the Batty Association are considering the programs. These companies have thousands upon thousands of acreage under their domain throughout the North State. If co-operate landholders, or their stockholders, would enter their landholdings into the programs, our state's sportsmen would loose the majority of their hunting grounds.

Local economies may also be threatened if the programs eventually meet the department's expectations. With declining timber resources throughout the North State counties must rely on other sources of revenues. Sportsmen generate a portion of such revenues through purchases of gas, hunting supplies, motel/hotel accommidations, and etc. Sportsmen participating in P.L.M. Programs generally do not contribute to local businesses.

Sportsmen are knowledgeable of two ranches being ousted from program participation because of violating the provisions in the legislative guidelines. The Dye Creek Ranch was shut down because of harvest violations and the Britt Corporation because of improper advertisement of property sales (Copy Supplied). Leaving the management of such valuable commodities in the hands of the private sector will nodoubt place additional stress on the state's wildlife. It is obvious that the department is trying to shirk it's responsibilities related to game management by passing such obligations onto the private sector. It is questionable that the department has sufficent manpower and the necessary finances to adequately police the programs. Allowing the program operations

Pg. 4

North State Sportsmen's Coalition

Testimony: Assembly Committee On Water, Parks, and Wildlife
Hearing on the Department of Fish and Game

RE: Private Land Management Programs

to continue under such circumstances is an act of irresponsibility toward the wildlife species and the citizens of the State of California.

Summary:

The majority of our sportsmen agree that it is essential to establish programs involving the enhancements of wildlife habitat on winter ranges. However, it is doubtful that our state's sportsmen will ever accept the Ranch For Wildlife Programs due to conditions outlined in this testimony. The violations described in this testimony depict a type of lawlessness which can not be condoned by the sportsmen, or citizens, of this state. The complete lack for the public's concerns and the concerns of county governments regarding this issue by the State Fish and Game Commission and the Department of Fish and Game is a disgrace to the government of the state of California.

It is of the general consensus of the majority of our state's sportsmen that the programs should be eliminated and efforts be undertaken by the Department of Fish and Game, the state's landholders, the state's sportsmen, and the state's environmentalist, and other interested parties to create programs which can be compromised by all parties represented and be beneficial in the enhancement of wildlife habitat and the welfare of our state's wildlife.

Respectfully



Ronald R. Parker

Spokesman, North State Sportsmen's Coalition

Additional Documents Submitted:

Resolution 1-86 from Sportsmen's Council of Central California

Media Release by Ken Castle, San Francisco Chronicle

Resolution, Kenneth Buttram, President, Siskiyou County Sportsmen's Association

Statement to Assembly Committee
Water, Parks & Wildlife
Assembly Governmental Organization
Concerning
Department of Fish & Game "Ranch For Wildlife" Program

My name is Wayne Long. I am President of Multiple Use Managers, Inc., a wildlife and recreation consulting and management firm. I am a wildlife biologist and, except for 2 years with the Department of Fish and Game, my career has involved 25 years of managing wildlife resources and hunting clubs on private lands.

My first introduction to legislation concerning Private Lands Wildlife Management programs was in the early 1970's when I was Chairman of an Ad Hoc Committee on Wildlife and Recreational use of agricultural lands, which was formed by the Assembly Committee on Agriculture. Since I think the proposed legislation that came out of that committee spells out very well the need for a "Private Game Management Program", I have attached a copy to this presentation for your review. You will notice that today's "Ranch for Wildlife" program is little changed from what was proposed then.

I can't say I am surprised at some of the negative reactions by a few sportsmen as that was something which from the very first was expected. However, most of the reactions and negativism is really unfounded and is due to not understanding what the program really achieves for wildlife, positive land use management and the sportsman.

A major misconception is that the program is closing out numerous private lands from public hunting. This is absolutely not true. It has been a number of years since any private landowners, except maybe a few of the larger timber companies, have allowed free access to their lands. Fee hunting in California has been going on for decades.

Statement to Assembly Committee

What this program has changed however, is that on the "program lands", instead of just harvesting game, the landowners now must actively manage it. This is something that is generally not being done on the majority of our public lands.

Also, the program is said to be for the elite hunters. If you were to compare the cost of hunting on clubs that are not in the program with those that are in it, I am sure you will not find any measurable difference in prices received. Something else that needs to be brought up concerning fees: Today there are few "poor" hunters. When you consider the cost of guns, hunting vehicles (sometimes 4x4 or recreation vehicles), food and travel costs, etc., a week in the woods is not cheap. Any way you look at it, it is not a poor man's sport and I resent hunters that complain about this program when many find the money to go out of state and, in many cases, hire outfitters to take them hunting. Money spent, that believe me, is not going back into the land to enhance wildlife populations like this "Ranch for Wildlife" program is doing.

Historically those individuals who are profitting from hunting activities have been those that profit from the sale of firearms, ammunition, recreational vehicles, outdoor clothing and related businesses. In addition, hunting has been a major economic factor for some local communities due to hunters spending money in their communities for lodging, food, supplies, etc. It can be said, that hunting and related activities is a major economic factor to numerous businesses and local communities. However, the individual that provides the most and is the most important ingredient to continued hunting, the landowner, receives virtually nothing. In fact, both the wildlife and the hunters can constitute real problems for landowners by way of crop and livestock depredation, competition for grazing and general trespass and nuisance problems with hunters.

A concern for wildlife managers and agencies is a continued loss in wildlife habitat due to ever increasing intensive farming practices and land use changes that eliminate wildlife altogether. We are also

Statement to Assembly Committee

at a period in agriculture where the landowner is almost forced into getting as much out of his land as possible. The simple fact is we need landowners to manage for wildlife as well as their other crops. However, for them to do that and to continue to do it over the long haul, they must see that it is in their best interests. What is needed is a program like this that provides incentives, where the landowner can see that managing wildlife and wildlife habitat can be profitable.

This new program has not only brought more land under responsible wildlife management, but has been important in that it has called attention to the significance of managing wildlife on private land. While some landowners have not signed up for the program, they have gotten more involved in managing their wildlife resources as economic resources. It has been good not only for the landowner, but for the wildlife and hunters as well.

Some criticism has focused on landowners being able to harvest does on their land. In all cases, it has been justified as sound wildlife management and should continue when needed. Another criticism has involved extended seasons. Possibly, in some instances, these seasons have been a little longer than necessary. However, you must remember that without extended seasons on some winter range lands, landowners would only be able to harvest a few or no deer, yet provide from their lands months of winter food so desperately needed by the deer. Under these circumstances, the deer have no benefit to the landowner and are truly a pest that competes with his other livestock.

The positive attributes of this program far out weigh any negative aspects. I cannot imagine it not continuing. A quick review of the good things that this program fosters include:

- 1) Makes landowners manage wildlife, not just harvest it.
- 2) The program has benefits for non-game wildlife and has landowners looking at all their wildlife.
- 3) It helps preserve open space and wildlife habitat from commercial development and intensive agriculture practices.

Statement to Assembly Committee

- 4) It has focused attention on wildlife management and good land use on more than just program lands in the state.
- 5) Provides hunting opportunities on lands that otherwise might be closed.
- 6) From a wildlife management standpoint, we have the opportunity to learn how to better manage some specific habitats and under some very specific conditions. Wildlife management research opportunities are fantastic.

Oct. 28, 1987

HEARING BEFORE ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

SPEAKER---Walton Powell, operator of the "Battle Creek Ranch Private Land Management Area"

TOPICS

1. Present day condition of the winter range of the Lassen deer herd in eastern Tehama Co.
 - a. Very poor--Why?
 - b. Overpopulation of female non-harvestable deer.
 - c. Curtailment of brush burning.
 - d. G1 Refuge expansion.
 - e. Veto powers of local supervisors on special hunts allowing the taking of female deer.
 - f. Overgrading of the range.
2. What must be done to rebuild the winter deer range.
 - a. Inform the general public about the true situation. They are uninformed and misinformed at the present time.
 - b. Get deer management out of the hands of the local politicians and back into the hands of the Fish and Game Dept. Abolish the veto powers of the supervisors.
 - c. Start a comprehensive controlled burning program.
 - d. Open up that part of G1 Refuge between South Antelope Creek and Mill Creek.
 - e. Balance the number of deer in the herd to the amount of available winter feed, by whatever means is necessary.
 - f. Get the sex ratio back in balance by the killing of doe female deer or curtailing the killing of bucks.
3. How best can this be accomplished?
 - a. The most important factor is to get the cooperation of the land owner, as most of the winter range in Eastern Tehama Co. is privately owned. The land owner controls the harvesting of the deer and also controls what can be done or what cannot be done as far as developing winter deer feed is concerned. The landowner must be given an incentive so that he will want to develop winter feed for the deer and insure a healthy herd.
 - b. Private Land Management Areas, such as the Fish and Game Dept. have going now is the very best approach.

- c. It provides incentive for the landowner.
- d. It gives the Fish and Game Dept. control over what must be done to improve the feed and cover conditions.
- e. It also gives the F. and G. Dept. control over the harvesting of the animals.
- f. It takes deer management out of the hands of the politicians and puts it back into the hands of the F. and G. Dept. The program is fundamentally sound in every way and every effort should be made to expand it--not stop it. The extended season has increased the value of the hunting rights, and the landowner can get much more for them. I, personally, pay Rex Hampton 10 times as much for the hunting and fishing rights on his property than he has ever received before. This is important to him.

4. Opposition to the Program.

Those who are against the program have made many GENERAL ALLEGATIONS AND ACCUSATIONS. They cry Cronyism, favoritism, and noncompliance with programs and regulations. Make them substantiate their allegations and accusations. I do not believe that they can do it. I find, for the most part, that those who are against the program are people who want something for nothing. They want to take, but never want to give back.

TESTIMONY, JOINT HEARING REGARDING THE MANAGEMENT AND OPERATION
OF THE DEPARTMENT OF FISH AND GAME

DATE: 28 October 1987

BY: George C. Kasolas

RE: Private Lands Management

I am a Ranch owner concerned about the equality of having a PLM ranch adjacent to me. I am truly concerned about our Wildlife Resources and the effect PLM has upon these Resources. In early July 1987, I became aware that a lessee of the neighbor Ranch applied for PLM licencing. I reviewed a copy of the application and spoke with many members of the D.F.&G staff members attempting to understand the application of their varying policies relating to PLM lincses. I made a presentation to Fish and Game Commission August 7, 1987 meeting here in Sacramento.

I am now here to request this body to re-evaluate the PLM Program, also referred to as Ranch for Wildlife Program and conclude that the PLM is not equitable to adjoining landowners, the unattached hunter and only benefits an affluent elite few at the expense of the overwhelming majority within our state. It is inequitable to the citizens of this State to have this elitist system for those few with Dough for Doe, Bucks for Bucks not to mention the FAWNS that PLM Harvest tags are issued for, the Cats for Fat Cats. It is unfortunate that a select few are able to hunt in the late season during rut, when all of the animals are down from the high country. This contrasted to the 290,000

unattached hunters representing the general public whom can only hunt during the general open season which concludes earlier. The general public is relegated to a substantial less hunting success 10% kill ratio versus up to 100% Guaranteed kills. We the general public are not allowed to hunt after the herds migrate out of the high country and graze on the alfalfa fields. With PLM there is no need to hike up the mountains in hot dry weather, the game hearing you break dry brush, now only climb aboard a tractor in the meadow.

PLM is inequitable to adjoining landowners, for it allows licensees to harvest the migratory herds which do not know where property lines end and begin. Animals know no boundaries and are expected to graze freely and be quick to jump your fence or mine. So, why is it that a PLM licensees can harvest these resources for whatever price the highest bidder will give, when the animals have grazed openly upon my lands, the lands of others, the public lands of this State and those of our National forests. No special privilege or consideration is granted to us the unattached landowners.

PLM does not require habitate improvement the first year of licencing. All that is required is a proposal for the following years habitate improvement. This can be as minimal as to burn less than 1% of the licensed area, with future landowner consent, landowner does not join in license nor is bound by license; start a cattle grazing ratation system on 2% of subject

area. In return licensee is granted the right to kill of no more than 110% of the total buck population or no less than 60% of the total buck population. This is 90 BUCKS, 40 FAWNS, and 4 BEARS

It is clear that if habitat improvement is a requirement it be undertaken prior to the issuance of a license. Whether the licensee be a lessee or actual landowner the landowner and land be bound to the terms of the license. Appropriate bond requirements also be required to insure that said habitat improvement are in fact, timely undertaken and completed.

It is interesting that habitat improvement must first be undertaken prior to PLM licencing of antelope as differentiated from bucks, does, fawns, bears, and mountain lions. Likewise in either situation if habitat improvement is not completed there are enforcement provisions other than possible loss of the license.

It is also unfortunate that the Department of Fish and Game will recommend for commission approval the issuance of a license to one who has suffered a revocation stating that it was the violation of the landowner, not licensee. It is clear that the program does not have the appropriate checks and balances.

PLM lacks public accountability, public input is discouraged. The chairman of the Fish and Game Commission on August 7, 1987, took exception that three Private Lands Management applications were removed from the commissions consent calender and put on the agenda for public comment. It is hard to convince a decision maker with public testimony if they have

predisposed beleifs that it is unnecessary to listen.

If this program is to be crediable, public input is a necessary ingredient. To start with, initial input should be from the local affected areas and the input taken in the local area at the very earliest stage. Seek the input from the local County Board of Supervisors; the local Fish and Game Commission; the appropriate Planning agency; a public notice be inserted in local newspaper; and adjoining landowners being notified they can provide input at the local level without having to come to Sacramento at the end.

This body has set forth certain legislation requiring Environmental Concens be considered. Enviromental Impact Reports should be required for all PLM applications. The general hunting seasons are not exempt from CEQCA requirements but are found to comply with its requirements. The basis is that local Boards of Supervisors are notified, there is notice being given in the press and all legislators are notified and well noticed public hearings are held (not placed on consent calandars without notice). In the case of the Private Lands Management, it appears no one is notified, and if one appears, it will be questioned why the matter is on the agenda subject to public input.

Let me tell you more about my experience before the Commission. I found the Department personnel not to be trustees of the public trust for our wildlife resources but actually advocates for applicants of this program. Let me recite to you regarding the Missner Ranch, which was the agenda item

immediately proceeding the Moffett Creek Ranch on August 7, 1987. Speaking on behalf of the applicant was a biologist for the United States Department of Agriculture who had prepared the application at no charge to the applicant. The U.S.D.A. personnel do actively participate in PLM by actively soliciting participants to engage in PLM. They will prepare extensive biological reports at no charge, provide funds for habitat improvement under 1930 U.S.D.A. federal legislation. Geographically one can look at a state map to see the U.S.D.A. influence. Where is the licensee's consideration? PLM encourages Double Dippers!

Double Dippers? Triple Dippers? Being most of the applications are in remote areas what effect about TPZ Zoning? TPZ Zoning gives the land owner a favorable tax benefit at the expense of his neighbors. Hunting is a allowable use in a TPZ zone with consent of the local board of supervisors.

The Department is not consistent in its licensing of Private Lands Management. For example take Missner Ranch application, the U.S.D.A. biologist stated that Department policy dictated that only one half of the harvestable deer for the subject area could be licensed for PLM kill. The balance to be left for the unattached hunter and unattached land. Whereas, in the Moffett Creek application, the Commission authorized the license of the killing of between 60% and 110% of the total buck population, not just those available for harvest as based upon sound biological study or the Herd management plan.

I was appalled that the Department staff would in response to inquiry provide the Commission statistics some twenty to thirty year old relating to deer kill in the area surrounding the Moffett Creek Ranch and not informing the commission of its age.

I would like to call to your attention my objections which I submitted to the Fish and Game Commission for its meeting of August 7, 1987, dated July 23, 1987, of which I have provided each of you a copy.

In conclusion, I question whether or not the Department has the constitutional authority to barter our wildlife resources in return for proposed habitat improvement.

It is clear to me that by having two seasons one for the general public and a privileged one for the fat cats with the dough and bucks smacks of elitism. It is the private exploitation and commercialization of our wildlife resources. In essence, it brings disrespect and mistrust of the purpose of the general hunting season. It has been stated that California suffers from a poaching problem, however with this PLM program poaching is not a problem, if you have enough bucks, it is o.k. to buy your way out of season. How do I teach a youngster to respect the seasons for they serve a necessary purpose in preserving the wildlife for tomorrow and future generations and ask that young person to put their gun down for the season as he is looking over the fence at all the hunters on the tractor awaiting the Herd to come to the meadow during Rut and to feed after the high country enters

winter.

Lastly, I do not believe that this program will save our wildlife resources from subdivision for it is clear that counties have zoned deer wintering areas. There is no plausible belief that PLM will stop subdivision. Deer co-exist with people, deer are found in all 50 states, and we find them in many residential areas of all counties of this State.

George Neary
16414 Highway 99
Chico, California 95926

October 16, 1987

Members of the Committee:

I have been a licensed hunter in California since 1935 and have hunted in other states and other countries. I owned and operated a Touring and Safari business in Tanzania from 1957 to 1965. I have three ranches in California and one in Oregon. My son and I operate the Mill Creek Hunting Ranch near Los Molinos and it is in the F.G. 601. It is approximately 18,000 deed acres plus several thousand more acres of inclusions. When acquired in 1976 this was a fee hunting operation with daily and seasonal rates and no limit or restriction on the number of animals shot. I might add the Lessee was paying \$30,000 per year and making a profit. I closed this operation down after one season. There was functionally no hunting until last year with our inclusion in F.G. 601, formerly A.B. 580. The location of our reserve, between Dye Creek and the Deer Creek areas, is a main thoroughfare for the Lassen Deer Herd into the oak and grasslands of their winter range. This is also a sheep and cattle range and the deer definitely compete with the live-stock and therefore represent a significant negative factor in the utility of the range. Fee hunting under a management program is the only equitable method of ameliorating this loss. In other words, by making the landowner/rancher a concessionaire, he views the wildlife as an asset rather than a liability.

Of course, the supervision and assistance of the Fish and Game people

October 16, 1987

Page 2

is needed. They can view the entire area and make strategic decisions upon which reasons and limits can be based.

My experience with the staff people has been very good. They really do the work, cover the ground and have the welfare of the wildlife at a prime concern. They also enforce the agreed-to projects and conditions placed on the landowner.

Game management and fee hunting is the norm in most of the western world and even in most of the Eastern Bloc countries. Of course, this implies privilege. My experience is that in the Eastern Bloc socialist countries, hunting is absolutely not available to any but the bureaucratic elite and ultra rich foreign sportsmen. It's expensive to operate these game management reserves; roads must be built and maintained, water developed and maintained, very costly liability insurance obtained, and restriction on livestock numbers to mention a few. In our case, we reduced the livestock by 50%.

This last alone is a cost in the area of \$25,000 per year in lost revenue. But this will result in a vast improvement of the range wherein the major beneficiary will be the wildlife. Collaterally, even the public hunting will benefit by a larger and healthier herd as these are migratory animals and cover the entire West Lassen watershed.

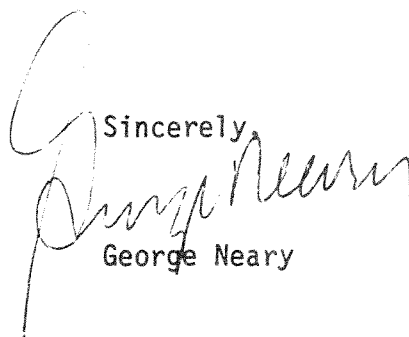
Also, this program is in its very early developmental stages. Of course there's room for modification and improvement. But scrapping it won't help the "public Land" hunters. All of this is private posted land and hunting trespass is absolutely not permitted. It certainly won't help the wildlife, quite the opposite. It won't help the Fish and Game Conservation, management and policing programs. Fish and Game are too under-funded and under-staffed already. With the landowners

October 16, 1987
Page 3

and reserve operators as allies they can at least hope to maintain a status quo.

Hunting for the masses is becoming a near impossibility under any circumstances; certainly not possible given land ownership and growing population. Given the circumstances of our times this program can develop into a benefit both financially and administratively for the State and can result in a healthier deer herd with secure habitat.

As to the "special privileges", late season and doe tags, it must certainly be conceded that without these large tracts of foothill land as habitat, the Ishi wilderness area and Tehama Game Refuge are just expensive irrelevancies. The deer, turkeys, bears, squirrels and wild pigs must rely on the acorns, pine nuts and manzanita berries as winter staples. Without some so-called privileges, landowners will be very inclined to cut down and sell these oaks and pines and clear the brush patches which the game need as shelter. There must be adequate economic rewards to encourage owners of this winter range and fee hunting, with its management oriented control, benefits the landowner, the State in increased revenues as well as the long term interest of the environment, and the game as well.

Sincerely,

George Neary

GN:bbs/jae

See Attachments

CHARLES R. BARNUM III
WILLIAM F. BARNUM

Barnum Wildlife Management Company
Redwood Creek Ranch

POST OFFICE BOX 631
EUREKA, CA 95501
[707] 668-5740

COLUMBIAN BLACKTAIL
DEER HUNTING
HUMBOLDT COUNTY, CA.

Summary of Presentation
Before The
Joint Hearing Regarding The
Management And Operation
Of The
Department Of Fish And Game
By The Assembly Committees On
Water, Parks And Wildlife
And
Governmental Organization
Wednesday, October 28, 1987
9 a.m.

William F. Barnum
Barnum Wildlife Management Company
P. O. Box 631
Eureka, CA 95501

1. BARNUM WILDLIFE MANAGEMENT COMPANY

Barnum Wildlife Management Company is a partnership of myself, William F. Barnum, and my brother, Charles R. Barnum, III. I am a graduate of Humboldt State University (with a degree in Business Management) and McGeorge School of Law. I practice law in Eureka. Charles is also a graduate of Humboldt State University (with a degree in Business with an emphasis in real estate). Charles is a licensed real estate broker.

Our family has lived in Humboldt County since 1852. In the last sixty years our family has been in the timber business. My father operates Barnum Timber Company, a family-owned California limited partnership. Barnum Wildlife Management Company is a separate enterprise which leases the hunting rights on the Redwood Creek Ranch from Barnum Timber Company.

2. THE REDWOOD CREEK RANCH

Barnum Timber Company owns a 17,000-acre timber and ranch property known as "The Redwood Creek Ranch" in north central Humboldt County, adjacent to Highway 299. This Ranch has been held by five different families since the 1850's when it was a pack train stop on the way to the Trinity mines.

There has been a hotel at the Ranch since the early 1850's. A fire destroyed the old hotel, so a new one was constructed in 1911. In the 1930's the hotel closed and the cattle ranching that had continued since the 1850's was temporarily halted. Sheep replaced cattle for a decade or so until the Ranch was sold to P. C. Merillon, an original delegate for France to the United Nations. Our family acquired the Ranch in 1951 and has conducted commercial timber operations since then. Some 200 pairs of cows and calves are now on the Ranch under a cattle lease with the Russ family of Ferndale.

3. HISTORY OF COLUMBIAN BLACKTAIL DEER
AT REDWOOD CREEK RANCH

Our understanding of the history of Columbian Blacktail Deer on the Ranch is derived from oral histories provided by prior owners, occasional newspaper accounts of hunting activities in years past, and knowledge of the changing habitat.

Our Ranch is located at the upstream limit of the range of redwood groves on Redwood Creek. The majority of all trees on the Ranch are hardwoods (black oak, white oak, tan oak and California bay (pepperwood)). Douglas fir trees have predominated only in patches and groves. For nearly 100 years the forests on our Ranch were virtually untouched, except by

fire. Commercial logging was not introduced until the 1940's. In fact, in the 1930's, the Pon family intentionally burned thousands of acres in an attempt to convert forests into grasslands to feed their sheep. In the process, deer habitat was temporarily destroyed.

Before logging began, one could ride horseback all over the Ranch, with a hat on, without ducking. There was virtually no brush or young trees to serve as feed or cover for the deer. In those days cattle and sheep kept the meadow grasses short so there was no protective cover in the meadows for the does and fawns. The forests were of the "old growth" or climax variety which offered little habitat for deer.

Our neighbors, the Frankies, tell us that just before logging began in the 1940's there were very few deer on the Ranch. In the next twenty years, however, many thousands of acres throughout the Redwood Creek drainage were logged. As a direct consequence of the logging, thousands of acres of brush and young timber appeared. With virtually unlimited feed and protective cover, the deer population on our Ranch skyrocketed. Similarly, with logging activities throughout the area peaking in the late 1950's, deer populations throughout Humboldt County hit all-time highs. Since deer populations peak approximately seven years following logging, it follows that the 1966 deer harvest

was Humboldt County's highest ever.

In the past 21 years, the pace of logging activities on our Ranch (indeed, throughout Humboldt County), has slowed. Most of the major timber owners have set long-term sustained yield goals while remaining flexible enough to respond to market conditions. The majority of logging on our Ranch in the last two decades has been what we call "re-logging" where a selective removal of remaining merchantable trees has done little to increase deer habitat. We know now that block cuts or clear cuts of timber constitute the best form of habitat manipulation for deer. In 1981-1982 two large block cuts on our Ranch converted old growth Douglas fir and tan oak into prime deer habitat. The best and healthiest deer populations on our Ranch are found in or near these two areas.

We have also learned that cattle grazing on the Ranch serves as an essential link in deer management. When not overgrazed, the cattle can improve the deer herd's access to important forbs, clovers and grasses. At the same time, however, we have learned that it maybe helpful to exclude cattle competition when the fawns are dropped in June and throughout the summer when riparian vegetation is critical to sustaining the deer.

We estimate the deer population of the Ranch to be between 600-650, down from the all-time high in the early 1960's.

4. WHY WE JOINED THE PRIVATE LANDS WILDLIFE
MANAGEMENT PROGRAM.

Charles and I are hunters. We respect wildlife and understand their role in the forests our family owns and manages. The truth is that the forestry we practice in our timberlands introduces a mosaic of widely-varying wildlife habitat to the animals living on our Ranches. The maturing stands of timber, the mixed oak and conifer forests, the grasslands and clearcut areas offer diverse habitat for a wide variety of game and non-game animals alike.

We know that the animals do not belong to us--they belong to the people of the State of California. We know that the Department of Fish and Game manages the the taking of game for the benefit of the animals and the people of the State of California.

We wish to intensively manage the game at Redwood Creek Ranch, but we must do so while preserving the economic viability of owning such a property. The Ranch is owned by Barnum Timber Company as a commercial forest property and the vast majority of all management decision must favor timber management goals.

However, there are management techniques that we can employ to overcome the gradual loss of habitat as the forests mature and improve the health, vitality and population stability of the remaining deer herd.

To do this, we have established three goals:

1. Manage the number of deer so as to maintain a population at or below the carrying capacity established by the forever changing habitat conditions on the Ranch;
2. Reduce the impact of illegal poaching and spotlighting of deer while otherwise increasing the public's legal access to the Ranch for hunting; and
3. Improve the habitat for deer especially during critical seasons such as late summer (when vegetation has been heavily grazed), and late winter (before spring regrowth occurs).

We could not achieve these goals without the cooperation of the local staff of the Department of Fish & Game and our participation in the Private Lands Wildlife Management Program. The Program should enable us to achieve our goals.

5. HOW WE JOINED THE PROGRAM

After learning of the Program, we met with local Department of Fish & Game staff and discussed what would be required. We prepared a draft management plan and submitted it to staff for suggestions and directions. We reviewed many other plans to see what other ranchers were doing. We studied the issues and sought professional wildlife management advice.

Classes from Humboldt State University's Wildlife Management and Range Management Departments came to the Ranch to study the condition of the habitat and range, generally. A representative of the University of California Agricultural Extension Office in Eureka has assisted in identifying seven species of grasses and clovers which we expect to be of benefit.

A plan was finalized, submitted and approved. In 1986 we sought, and received, Commission approval to take 25 antlerless and 20 buck deer at Redwood Creek Ranch. While we were authorized to take up to seven percent (7%) of our estimated deer herd, our actual take was 27 animals (19 does, 8 bucks), or four percent (4%).

6. OUR 1986 SEASON

In the fall of 1986, we implemented a marketing plan that we hoped would yield sufficient income to pay for our habitat improvements, hunting expenses, insurance, marketing and hunting lease expenses. We did not expect (nor did we receive) any compensation for our personal time and effort in our first season. Nevertheless, we decided that, consistent with the spirit of the Program, we wanted to do something to increase the general public's access to the Ranch on a fair basis. We decided to conduct the antlerless hunts for a fee of \$10 per tag--the same price we were charged for each tag. In other words, the antlerless hunts produce zero net income to us. We still had to provide a guide service to the hunters, we had to meet them and organize their hunts with safety in mind, and we had to insure against liability exposure. Liability insurance in 1986 cost \$2,805.

7. OUR FEE STRUCTURE

We decided to make the buck hunters pay the cost of our entire program. We set our fee for buck hunts in 1987 for a five-day hunt at \$2,900. We knew that was expensive. But, the charge was not just to buy a tag. The tag only cost \$20. We charged that fee to pay for our hunting lease, insurance, guide

service, a gourmet chef, ground transportation, use of the hotel, utilities, marketing expenses, all of the habitat work, equipment rentals and materials, and finally, our time.

We were not willing to mimic other big game outfitters and overbook the hunts. Some Rocky Mountain deer hunting camps have as many as 35 to 50 buck hunters in camp per week. We wanted to offer a unique, high-quality, uncrowded hunting experience. Four hunters at one time on our Ranch meant each hunter could access over 4,000 acres and never see another hunter. We expected some demand for this kind of hunt. We were right.

We also expected some negative reaction to our idea. That, too, has occurred. Some have said it is too expensive for the average hunter. We agree. Unfortunately, we cannot afford to do it any other way, unless we overhunt the deer herd and offer a more crowded hunting experience.

We are not willing to offer a crowded hunting lodge. We are not willing to charge a high fee to take antlerless deer. We are not willing to have hunters on the Ranch without insurance to protect them and us. We are not willing to work for free. The result is our fee.

This year we have booked 21 of 25 buck tags. Sixteen spots are reserved in the hotel from November 12 through December 1. Nine other tags were sold at a one-third discount to a family in the Bay Area who specifically chose to hunt without daily guide service, a cook or use of our hotel. They would rather camp out.

8. OUR RESPONSE TO COMPLAINTS WE HAVE HEARD

a) "THE FEES ARE TOO HIGH."

As we have said above, our buck fee is a function of the low quota we have and our unwillingness to crowd hunters onto the Ranch. (If we booked more hunters, each could pay a lower fee). We also prefer to give the antlerless hunts away without a fee above the cost of the tag. Using our method, 35 doe hunters hunt without paying a fee and 25 buck hunters pay to make this possible. That seems fair to us.

This year our insurance cost \$8,207, up more than 300% in one year, though we had no accident claims in 1986. After all is said and done, Charles and I will make less than \$10 per hour for our efforts. We cannot afford to do it for less.

b) "HUNTING IN THE RUT IS NOT SPORTSMANLIKE."

California deer hunters generally hunt before the deer enter the rutting season when the does are in estrus. Bucks are generally less visible early in the season. The result is that only nine to ten percent of California hunters fill their buck tags, despite seasons up to five weeks in length. Only 29,000 bucks were taken in 1986 out of a deer population of more than 1,000,000 in California.

The truth is that approximately 93% of all bucks taken in North America are harvested during the rut. Most states have short (e.g. two week) seasons with very high success rates. In Wisconsin last year 180,000 deer were taken in the rut, in a short season.

This issue should be discussed in the context of what is in the best biological interests of the deer herds as managed by the Department of Fish & Game. On those ranches in the Program, using strictly controlled quotas, a late season hunt does nothing to threaten or damage biological goals. To the contrary, marketing the late season hunt enables wildlife managers to pay for the entire operation and habitat improvements. Furthermore, since our business is a service business, and the demand is for a late-season hunt and not early-season hunts, wildlife managers

are meeting the demand of the marketplace.

- c) "THE LATE SEASON HUNT IS FOR THE PRIVILEGED FEW.
THE PUBLIC DOESN'T GET TO DO IT."

Not true. The Commission specifically conditions the granting of late season hunts upon the availability of late season hunts for the public in nearby public hunting areas. The Commission calls the hunts "parity hunts." We support this concept. So long as the number of late season hunts is limited in California, we believe that the parity hunt idea satisfies the demand for such hunts. If California hunters want more of these hunts, they need only ask their local staff to implement such seasons.

- d) "HUNTING IN THE RUT MAKES IT A SLAUGHTER OF
DEFENSELESS BUCKS."

This complaint can only be true when no quotas are established and the deer have no place to escape or hide. On our Ranch, however, we do hunt on the quota system and 83 percent of the land on our Ranch provides escape cover for the bucks. It is true that the bucks show themselves in the opens and meadows more during the rut, but this creates an environment which encourages patient hunting. We urge our guests to pass up all of the young

forked horns and three-pointers, and to wait for an older specimen. This means more bucks are living longer lives than before and our quota insures that no "slaughter" occurs. Blacktail deer do not "herd up" on our Ranch like the mule deer do in the Rocky Mountains or in the Great Basin; consequently, we have to work harder to hunt the bigger and older bucks on our Ranch.

- e) "THE PROGRAM ALLOWS KILLING ALL OF THE BIG TROPHY BUCKS IN THE COUNTY."

This claim is ridiculous. Humboldt County has an area of 3,621 square miles. That is some 2,300,000 acres. Our Ranch is only seven tenths of one percent of the County's area.

Even if we were to fill all 25 buck tags, we would be harvesting less than one buck per square mile on the Redwood Creek Ranch. We are the only ranch in the County that limits the take of bucks to a quota set in cooperation with the Department of Fish & Game. All other ranches have the right to an unlimited legal harvest of bucks. Who knows how many trophy-quality bucks are poached each year? In addition, we have no way of attracting or confining trophy-quality bucks.

Although our management will increase the number of trophy-quality bucks on our Ranch, we know that deer do not respect property lines. Bucks living on the perimeter of lands in this Program may wander off without limitation. The general public has first chance at the deer that wander off these lands as the general deer season is earlier than our season under the Management Plan.

- f) "THE PROGRAM ALLOWS FENCING IN THE BIGGEST BUCKS WITH HIGH FENCES."

We really have heard such complaints. They would be laughable if not so sadly misinformed.

All fences we build are to exclude cattle, not include deer, and no fence we have built exceeds three feet in height.

- g) "THE TAKING OF DOES WILL WIPE OUT THE DEER HERD."

Another misinformed statement. To the contrary, not taking does permits huge population increases when the natural habitat is not stressed and the seasons are mild. But, then, when feed is overtaxed and the seasons harsh, the overpopulated herds are decimated. Doe hunting permits the management of the total population so that unregulated population growth is

limited--hopefully within the carrying capacity of the Ranch's available habitat. Our only problem is that we have not yet taken enough does to make a significant management difference.

h) "THE HABITAT WORK IS NOT REALLY BEING DONE."

Again, not true. This year we developed two water sources and used one to irrigate an experimental planting of seven species of grasses and clovers. The fences around the experiment allowed the deer in to eat their chosen favorite species, but it excluded cattle competition.

This fall we have sown several hundred pounds of seed in key areas.

We have learned that relying upon seed to germinate in the mountains is a chancy thing--so we are looking to managing the cattle's impact on deer habitat as a primary management tool for the future.

All of the habitat work set forth in our Amended Plan has been done and personally inspected the the Wildlife Biologist on the Department of Fish & Game staff in Eureka.

- 1) "THE DEPARTMENT OF FISH & GAME DOES NOT WATCH THE PROGRAM OPERATORS CLOSE ENOUGH."

Actually, the Department of Fish & Game has carte blanche permission to access the Ranch at any time. We have had personal inspections of our habitat improvements. We work closely with wardens to apprehend poachers. We submit all tag reports on time. We validate many of the tags filled at the Ranch. We keep all weights and ages of both sexes as one of our management tools--so the Department of Fish & Game knows what we have taken from the Redwood Creek Ranch. The fact is that the Department of Fish & Game staff spends more time at the Redwood Creek Ranch than at most other private ranches (or much of the public property) in Humboldt County. This monitoring is not something we resist--to the contrary, we benefit from the knowledge, cooperation and assistance we receive from the staff and wardens. Since we gain by working with and not against the staff and wardens, there is no incentive to deviate from the stated management goals or quota.

9. CONCLUSION

We joined the Private Lands Wildlife Management Program because we see that it can help in the management of the deer herd on our Redwood Creek Ranch. Through the implementation of

our Management Plan goals we hope to see a healthier and more stable population of deer on the Ranch. In turn, we have been able to enter into a satisfying service business that is just marginally capable of paying for our time and effort.

Were it not for the Program, and the flexibility wildlife managers have to market the access to their Ranches, they would not be able to accomplish the above-stated goals. The Program also permits the Department of Fish & Game to, in effect, "deputize" wildlife managers into its management role while state finances are stressed. The Program helps the Department to achieve its management goals at the expense of hunters and not the taxpayers.

The general public has raised several questions which demonstrate the need for better education as to the benefits gained for the managed game in the Program. We believe that the paramount concern of legislators and the staff of the Department of Fish & Game must be: "Which available management alternatives are in the best interests of the game we are charged to manage?"

Implementing the many answers to that question includes the continued operation of the Private Lands Wildlife Management Program. The Department of Fish & Game developed the Program as an incentive to achieve two goals: (i) improve or maintain deer

habitat on private lands; and (ii) improve the public's access to private lands. Late season buck hunts provide the marketing opportunity--sound biological controls and quotas insure the intended results. At Redwood Creek Ranch, the Private Lands Wildlife Management Program provides the incentive and, through our efforts, achieved its goals.

Respectfully submitted,

BARNUM WILDLIFE MANAGEMENT
COMPANY

By William F. Barnum
William F. Barnum

SNOWSTORM RANCH
11919 No. Lower Sacto. Rd;
Lodi, Calif. 95242

Oct. 20, 1987

TO WHOM IT MAY CONCERN:

Subject:
Private Land Management Program.

On Oct. 28th 1987 I understand that the above subject will be heard.

I Joe Precissi, Mgr. of the Snowstorm Ranch, located in Dist. X-5A, in Lassen county, would like to testify at the above hearing in our behalf.

I would like your committee to hear what we have done on this property since 1946.

We have been in the Private Land Program for the years 1985, 1986 and 1987.

I wish to be very brief in my request and do hope that your committee will grant me the privilage to be heard.

SNOWSTORM RANCH

By


Joe Precissi

S-1



CLOVER CREEK HUNTING CLUB
P. O. BOX 595
PALO CEDRO, CALIF. 96073
NRA 10956

OCT. 27, 1987

CALIFORNIA LEGISLATURE
ASSEMBLY COMMITTEE
ON
WATER, PARKS AND WILDLIFE

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CALIF. 94249-0001

RE: PRIVATE LANDS MANAGEMENT

ASSEMBLY COMMITTEE

I AM FOR THE PRIVATE LANDS WILDLIFE MANAGEMENT
PROGRAM.

BRIEF SUMMARY OF BENEFITS.

1. PRIVATE MONEYS GOING FOR HABITAT IMPROVEMENT
OF OUR WILDLIFE.
2. IT OPENS PRIVATE LANDS, (EVEN WITH A FEE) TO
THE PUBLIC AND TAKES SOME PRESSURE OFF OUR
PUBLIC LANDS.
3. ALSO THERE ARE FEWER GUN ACCIDENTS, BECAUSE
OF THE CONTROL HUNTS.
4. DEPT. of FISH AND GAME ALSO RECEIVES NEW
DATA ON WILDLIFE, FROM PRIVATE LANDS OPERATORS.
WHICH THEY WOULD NOT HAVE, WITH OUT THE
PRIVATE LANDS MANAGEMENT PROGRAM.

THANKS,

Gene Gardner

GENE GARDNER, MANAGER
CLOVER CREEK HUNTING CLUB
MOFFETT CREEK RANCH
P.O. BOX 595
PALO CEDRO, CALIF. 96073

OCT. 28, 1987

CALIFORNIA LEGISLATURE
ASSEMBLY COMMITTEE OF
WATER, PARKS AND WILDLIFE
STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA. 94249-0001

RE: PRIVATE LANDS MANAGEMENT

ASSEMBLY COMMITTEE


MY RANCH IS IN IT'S THIRD YEAR OF OPERATION UNDER THE
PRIVATE LANDS WILDLIFE MANAGEMENT PROGRAM.

THIS PROGRAM IS BENEFICAL TO BOTH WILDLIFE AND LIVESTOCK.

BEFORE THE P. L. M. PROGRAM I GRAZED THE COMPLETE RANCH
AND FED IN THE WINTER. WITH THE P. L. M. WE ALTERNATE ONLY
GRAZING ONE HALF EACH YEAR, AND NO FEEDING. ALSO THE WILDLIFE
GETS ONE HALF EACH YEAR UN DISTURBED.

I AM FOR THE PRAVITE LANDS MANAGEMENT.

THANKS;


DAVE FITZPATRICK, OWNER
FITZPATRICK RANCH
5004 SILVER BRIDGE RD.
PALO CEDRO, CA. 96073

DATE: 28 October 1987

TO: Assembly Committees on Water, Parks, and Wildlife
and Governmental Organization

FROM: Frank Dawley, President
Tehama County Resource Conservation District

RE: Private Lands Wildlife Management Program

My name is Frank Dawley. My wife and I manage her family's ranch in the foothills west of Red Bluff. It is a medium size ranch; too big for us to work properly, too small to support a hired hand. We have had a hunting program for three years, the last two in the Private Lands Wildlife Management Program.

I am also President of the Tehama County Resource Conservation District. The District is a legal subdivision of the State of California, governed by Division IX of the Public Resource Code. The district has five volunteer directors who strive to conserve the natural resources of the county. With our very modest budget, our efforts are limited to encouraging cooperation between various resource agencies and private land owners, and facilitating resource education to schools and the general public.

In my remarks during this hearing, I shall speak as a rancher about the significance of the Private Lands Program to our ranch and the local wildlife. As a representative of the Tehama County R.C.D., I shall speak about the Private Lands Program and resource conservation in California.

I. Private Lands Program and Our Ranch

More than most people, I think ranchers hate paperwork. If it were not for the liberal distribution of the \$500 fine, I think most would avoid the one page associated with bulldozing in a creek. Another common paper headache is the Agricultural Stabilization and Conservation Services Agricultural Conservation Program. Two pages of paperwork and a few restrictions cause many ranchers to forego up to \$3500 of cost share money.

The desk time and paperwork associated with the Private Lands Program is substantial. To develop a plan takes 15 to 30 man days of research, observation, and writing. The annual report requires several more man days. A rancher must either do this himself or pay to have it done for him. Another paper headache of the program is simply keeping track of the tags. I am positive most ranchers would much prefer to spend days improving habitat rather than sit at a desk pushing paper.

What we are marketing to our clients is an opportunity to enjoy the outdoors and to leave the everyday life behind. This concept of the "quality outdoor experience" encompasses much more than just shooting a deer. The appearance of the landscape, the number and variety of species, the weather, the unforeseen occurrences all contribute to their "out of the ordinary" experience.

Our ranch is in zone D-18, which has a 16 day season this year. Our deer herd can yield 10 bucks and 6 does a year. It would be

unlikely we could take 16 deer in 16 days, much less provide a "quality outdoor experience". Our Private Lands season of roughly 100 days allows us time to provide a good hunt for our clients and still accomplish a careful culling program. In addition, we have shifted our Valley Quail and Wild Turkey season to contribute to the variety of our client's experience.

I am not a hunter, and from 1960 to 1984 our ranch was not hunted. During deer season, we hunted trespassing deer hunters. However, since we began our hunting program in 1985, I have become very interested in wildlife management.

The deer herd on the ranch has had little hunting pressure. Our traditional grazing and farming practices were focused on cattle ranching. Our 1985 deer herd composition observation indicated 45 bucks, 50 does and 4 fawns. These factors indicate that our habitat was stable, and our deer herd was stable. Only as adults died of old age or misadventure was there room in the habitat for some of the 80 fawns born each year to survive.

In our third year of a hunting program, we have seen our deer herd size increase slightly, our fawn survival has increased six fold, and the general condition of the animals taken has improved markedly.

The last point I will offer about the Private Lands Program and our ranch is how it has altered our overall management. Perhaps the biggest change was realizing that wildlife management

bears little resemblance to cattle or farm management. With wildlife you can't brand, vaccinate, fertilize or even count your "crop". It took a while for us to realize that wildlife has had eons of self management, and our contribution would be to select management practices which complimented or enhanced the ecologic base. In developing our Private Lands proposal, we chose "wildlife" practices which coordinated with other ranch programs.

For example: Instead of burning 500 acres of brush every fifth year, we now have a Coordinated Resource Management and Planning Program with C.D.F. and our neighbors which will burn a 75 acre mosaic yearly.

Also, we used to grow an oat hay-sudan grass rotation for cattle forage. This gave a modest cash return but left the fields bare during two critical times of the deer's annual cycle. Now we grow permanent pasture, a renowned non-profit crop, but one which satisfies both the cattle's and the deer's needs.

Lastly, we have radically changed our grazing management. Using Holistic Resource Management, we are using cattle to enhance our entire resource base. Briefly, cattle graze a portion of the range for a short period. That area is then rested for a long period while nature recovers from the grazing and incorporates the cattle's "contributions". The response has been exciting.

Our goal is to increase the ranch income by roughly one third from our wildlife program. The cost to the ranch is more than the \$400 fee and the expense of the habitat improvements. There is the aggravation of deskwork and time taken away from doing "real" work. Also, it has influenced how we manage the entire ranch. We have learned that the quality of our entire natural resource affects the quality of wildlife a client sees and the quantity of his "outdoor experience" for which we are being paid.

II. Private Lands Program and the Natural Resource

Speaking now for the Tehama County Resource Conservation District, we strongly support the Private Lands Wildlife Management Program. Since 1985, we have initiated three programs directly concerned with the Private Lands Program. They totaled more than three days with over 100 attendees.

The R.C.D. sees the land owners and managers of the county as our target audience. They are responsible for the condition of most land in the county. They are the stewards of the watershed. This committee of our Assembly is concerned with two products of that catchment: water and wildlife.

Our water resource, its quality, abundance, and flow rates, is an indicator of the quality of the natural resource in the watershed. Wildlife is a part of that natural resource. Wildlife

and game is a manifestation of the quality of the natural resource.

The Tehama County R.C.D. feels that through the Private Lands Program, landowners and managers will become involved with the entire natural resource. Rather than making decisions solely with regards to cattle or hard wood harvest, they will learn to consider and balance the needs of cattle, game and non game species, and the quality of their outdoor resource.

To conclude, the Private Lands Program is a remarkably positive program. It is a cooperative agreement, freely entered into by the State and the rancher. The Department of Fish and Game considers a proposal's biologic soundness, adherence to departmental and legislative guidelines, and annually monitors compliance. The rancher examines the agreement in terms of practicality, financial responsibility, and suitability to his operation. The result is beneficial to the rancher, California's wildlife, and our common wealth - the natural resource.

STATEMENT ON BEHALF OF
CALIFORNIA CATTLEMEN'S ASSOCIATION

by

SHEILA MASSEY, DIRECTOR FOR REGULATORY AFFAIRS
AND
JOHN TOOKER, LEGISLATIVE ADVOCATE

before the Assembly Committees on
Water, Parks & Wildlife
and
Governmental Organization
October 28, 1987

The production of livestock is an industry that requires large acreages of land for grazing cattle or sheep - the primary food source of cattle and sheep is grass and other forage materials.

Since the introduction of domestic cattle to California by the missionaries and Spanish land grant holders, livestock and wildlife have lived side-by-side on the grasslands, meadows and mountain ranges of our state. Some species compete for the same food supply but most complement each other, i.e., one species will graze and another will browse, thereby utilizing the natural habitat in the most efficient manner. One common bond both have is their exposure to predators -- lions, bobcats, coyotes and occasionally bears. Programs developed to reduce livestock losses from predator attacks also benefit wildlife populations such as deer and antelope herds.

As the population of our state grew, cities and towns took up more and more of the lands where domestic livestock and our state's wildlife once grazed. Orchards, vineyards, fields of row crops and greenhouses also took more land. As land became more expensive and difficult to obtain, livestock producers took steps to improve the grazing conditions, or carrying capacity, of their private lands. Reservoirs were built and springs developed and improved to provide a source of drinking water. Brush was cleared and burned to improve the natural growth of grass and other forage materials.

Deer, and in some cases elk and antelope, were often found in our pastures, alfalfa and grain fields. Quail, doves, pheasants and other game birds were also to

be found there. As their numbers grew and hunting pressure from urban residents increased, several negatives developed. One was that all too often the numbers of wild game animals would crowd out the domestic livestock which resulted in decreased carrying capacity for the rancher or farmer. A reduction in the size of a cattle herd could potentially mean a loss of revenue. Trespassing, vandalism and dead livestock from hunting accidents were the second negative to be found.

A number of livestock operators found that they could lease access to all or part of their ranches to sportsmen's groups or gun clubs. Revenues generated from these leases would compensate for a loss of revenue from decreased cattle herd size. Other ranchers and farmers merely posted no trespassing or no hunting signs on their ranches. This reduced the area available to urban hunters and further increased hunting pressures on public lands, and those private lands open to the public.

Landowners can market access to their property, whether for hunting, or fishing, or for other uses such as recreation or mineral exploration, etc. Hunting and fishing access, however, require the hunter or fisherman to have the necessary state tags and licenses. Pheasant club operators can set their own limits on the total number of birds taken. Other types of hunting operations must obtain private hunting club licenses from the Department of Fish and Game. Hunters on these operations must adhere to the established state bag limits and seasons.

In 1980, enabling legislation was enacted creating five pilot projects under a new program known as the Private Lands Wildlife Management Program. Legislation was passed in 1983 (chapter 835, Statutes of 1983) to make the program permanent. The Private Land Wildlife Management Area program offers an opportunity to cooperate with the Department of Fish & Game and recover some of the costs of specifically managing for wildlife purposes. This is the value of the program for us.

Hunters, landowners and the state wildlife all benefit from various aspects of the 601 program. Ranches which had been closed to hunting have been opened thus providing additional areas and opportunities for hunters. Ranchers under the

program must develop and implement a wildlife management plan which will benefit the species to be taken. This plan is reviewed and approved by the Department of Fish and Game and the Fish and Game Commission. These plans may include improving watering holes for wildlife and fencing them off from the domestic livestock; removing domestic livestock from areas in order to provide habitat for wildlife; providing shelter or cover for wildlife and nesting areas for game birds. These habitat improvements are designed to improve the quality and quantity of wildlife on a given ranch. The landowner (rancher) is then allowed to charge an access fee to a designated number of hunters, set by Fish & Game, who wish to hunt on the ranch.

In addition to economic incentives landowners may receive for improving wildlife habitat and herd size on their private lands, there are other benefits as well. For example, the length and time of the hunting season can be adjusted. This is of particular interest to some ranchers who may not wish to have hunting on their land during the late summer or early fall when their cows are calving or other operations are taking place. Even those hunters who do not hunt on Private Land Wildlife Management areas benefit. When a person purchases the special tags for a wildlife management area, they must turn in any other tags they have already purchased for hunting that specific species. For example, if 10 hunters who previously had obtained tags from the Department to hunt in a specific area decide to hunt in a Private Land Wildlife Management area, their tags are returned to the state and 10 additional hunters are then issued the old tags.

In conclusion, the California Cattlemen's Association supports an efficiently managed and enforced Private Land Wildlife Management Program because of the many benefits it can produce for hunters, landowners and the state's wildlife. Programs of this type should be encouraged as they recognize the important contributions that livestock operators and other landowners make to enhance California's renewable resources and allows them to receive appropriate compensation for their efforts.

The Resources Agency
State of California
Department of Fish and Game
Wildlife Investigations Laboratory
October 1987

BLUETONGUE: A WILDLIFE MANAGEMENT PROBLEM

Bluetongue (BT) is a viral disease of wild and domestic hoofed animals which was first recognized in domestic sheep in the 1940s and was first isolated in California in 1953. Its probable origin is Africa where it has been recognized as a major disease problem in domestic livestock since the turn of the last century. A similar virus, Epizootic Hemorrhagic Disease (EHD) of deer virus, may have existed in North America historically. Both diseases are transmitted by the bite of a blood-sucking vector. Only hoofed animals appear to be susceptible to BT and EHD.

Cattle are readily infected with EHD and BT, but seldom appear to be seriously ill. Some get sores around the nose and mouth, and cows in early pregnancy may lose their calves. Cattle can become silent carriers of BT and EHD, and may act as a reservoir of infection for other animals. The situation is less clear with other wild and domestic species. Although most elk have evidence of exposure to BT and EHD, we have never seen disease signs in one.

Pronghorn antelope in California appear to be somewhat resistant, but they have died from BT and EHD in Wyoming. Wild and domestic sheep are more susceptible to bluetongue, often getting a swollen head, ears, and tongue (discolored blue due to lack of oxygen). When infected with "hot" strains of bluetongue, sheep often die; with "cold" strains, only sores appear in the mouth and around the hooves. Bighorn sheep, particularly lambs, may die of bluetongue or suffer from secondary bacterial pneumonias. Bluetongue killed several adult California bighorn at the Lava Beds National Monument in 1974.

Black-tailed and mule deer die from infections with "hot" strains of BT, but appear to be rather resistant to EHD. Relatively less virulent types of BT will result in thin deer that slough hooves; get large sores in the mouth or stomach, and these deer may survive or die. When BT strikes in the spring, adults and fawns may both die. Does may abort or fawns may be born dead or fail to live beyond a few days. "Cold" strains of bluetongue may cause no outward signs of disease in deer.

In 1986 a type 10 virus, previously thought to be a "cold" strain, was isolated from a major deer dieoff in Siskiyou County. An estimated 5,000 to 8,000 deer may have died. Four virus strains (10, 11, 13, 17) occur throughout North America. A fifth type (2) was introduced into Florida with a load of South American cattle several years ago and appears to be spreading.

Deer deaths from "footrot" and "Modoc Mud Disease", which have occurred periodically in California since the 1930s appear to have actually been caused by BT virus. However, there is no way to go back and prove or disprove that now. "Footrot" is a poor name, as it reflects only the hoof sloughing and is confused with a similar bacterial disease of cattle and sheep. Deer "footrot" dieoffs were severe in many areas of the state in the 1940s and 1950s, at times killing thousands of deer. This continued at a generally lower level in the 1960s and 1970s as deer herd numbers declined in California. It was not until the late 1970s and early 1980s that the California Department of Fish and Game discovered the major cause of "footrot" was BT virus with possibly some contribution from EHD virus.

In the last several years, BT dieoffs involving as many as 5,000 to 8,000 deer have occurred in northern California, primarily in Mendocino, Modoc, Siskiyou, Tehama, and Trinity counties. A rough estimate of the number of deer killed by BT since its introduction is at least 50,000. It is difficult to estimate deer losses. Fawns are quickly consumed and carcasses can be scattered. Only when concentrated near water holes are dead deer commonly seen.

Bluetongue and EHD may be the most important infectious diseases of deer. However, bluetongue is not the only problem deer face. Malnutrition and habitat loss, predation and poaching certainly are important. Bluetongue is not easy to separate from range management practices that limit food and water and crowd deer and livestock together. A concerned public are pressing DFG for answers to many remaining questions about this complicated disease and for action to reduce its impact.

As noted in this paper, some confusion about bluetongue has existed until fairly recently. In the last five years, the Department has supported considerable research on BT and has issued several scientific papers and press releases. Some proposed actions would have major negative financial impacts on the livestock industry (banning livestock from deer grazing areas, and mandatory vaccination of livestock). These actions may be of questionable value in controlling bluetongue until we know which mammals are the major sources of infection.

It appears the biological vectors which transmit BT and EHD may be the weakest link in the disease transmission chain. The Department is concentrating efforts on identifying the type of habitat these vectors breed in and how they can be reduced or eliminated. This may involve cleaning up or building new water sources. It could also require changes in land use policy or range management practices.

A multidisciplinary investigation team will be formed involving the University of California, Davis (UCD), the Department of Fish and Game (DFG), and other state and federal agencies. Over the next five years, the DFG expects to provide financial support.

MIGRATORY DEER IN BUTTE COUNTY

This report is presented to the Butte County Board of Supervisors to: 1) provide updated information on migratory deer in Butte County, 2) describe impacts of subdivision encroachment on migratory deer ranges, and 3) recommend mitigation measures for protection of migratory deer habitat affected by subdivision development.

Three different deer herds are found in Butte County. These herds are identified as the East Tehama, Bucks Mountain, and Mooretown deer herds. Although some summer range occurs within the County, Butte County principally provides winter range for these deer herds. Summer range is primarily located in Plumas County.

Annual migration patterns are typically triggered by seasonal climatic changes. In the fall, at the onset of a storm, migration begins. Most deer migrate along ridges directly to their winter range. Others linger in holding areas or on their summer range until forced to their winter range by a major storm. They then remain on these ranges throughout the winter months. As the snow pack recedes in spring, deer initiate movement to their summer ranges. The spring migration, generally occurs through the lower elevations often on south slopes, following major stream courses.

For many years, this cycle repeated itself relatively undisturbed. Recently, disruption resulting from conflicting land use along the western slope of the Sierra Nevada Mountain Range has occurred. This disruption is in the form of land subdivisions and residential development which are steadily encroaching into migratory deer ranges, particularly winter ranges. The same conditions that make these areas of value to deer (mild temperatures) also make them desirable for human use.

Eventually, development of currently subdivided parcels will reduce existing habitat still suitable for migratory deer and ultimately reduce deer populations. In Butte County current subdivision will adversely affect approximately 40 percent of the deer winter range.

Butte County Deer Herds

East Tehama Herd

The East Tehama deer herd is the largest deer herd in California and occupies a range considered to be the most extensive in the state. It includes the area east of the Sacramento River in Tehama County, northern Plumas County, portions of western Lassen County, southern Shasta County, and northeastern Butte County (see figure 1). Currently, the population is estimated about 56,000 animals. Approximately one-third of the East Tehama deer herd's range occurs within Butte County.

The major limiting factors for this herd are: 1) adverse forestry practices on the summer range (i.e., reforestation, intensive timber management, and fire suppression) and 2) residential encroachment into winter range. In the Butte County portion of this deer herd, use of about 40 percent of the critical winter range has been severely impacted due to residential encroachment. Other problems facing the herd include vehicle-deer collisions, poaching and uncontrolled dogs.

Bucks Mountain Herd

The range of this herd is bounded to the northwest by the southeast border of the East Tehama herd, and to the southeast by the Middle Fork, Feather River (see figure 2). Deer from this herd largely winter within Butte County, from about 500 feet elevation to about 3,500 feet. Summer range is mostly above 4,800 feet elevation, with nearly all being located in Plumas County. Winter range is located primarily in Butte County. Based upon deer kill figures, the herd population is estimated to be about 3,400 animals.

The major limiting factor for this herd is loss of winter range. A 28 percent loss of winter range to residential encroachment is a major factor contributing to a population decrease of about 60 percent from the herd population peak in the early 1960's. Another significant winter range loss was the inundation of 14,000 acres by Lake Oroville. Marijuana gardeners, poachers, uncontrolled dogs, and road kills (i.e., collision with vehicles) are other problems facing the herd.

Mooretown Deer Herd

The range of this herd is immediately to the south of the Bucks Mountain herd and extends into Butte, Yuba, Sierra, and Plumas Counties (see figure 3).

Winter range is the limiting factor for this herd. About 50 percent of the winter range in Butte County has been lost to residential encroachment, and similar losses have occurred in Yuba County. Nearly 6,000 acres of winter range was inundated by Lake Oroville.

Deer Habitats

Deer habitats in Butte County and throughout California are classified as follows: critical winter and summer ranges, designated winter and summer ranges, fawning areas, holding areas, migration corridors and intermediate (transition) ranges.

Critical Deer Habitats (i.e., critical ranges, migration corridors, and holding areas) are those which provide optimum habitat conditions for deer and play a vital role in sustaining the deer herd. These areas also support the highest concentration of deer.

Designated Deer Habitats are those winter, intermediate and summer ranges which provide all of the necessary habitat factors but of a somewhat lesser quality than those identified as Critical Habitats. Deer use is generally less on designated habitats although the intensity of use may vary from year to year.

Fawning Areas are those portions of summer range in which does select sites to deliver and maintain fawns. Although some important fawning areas are on eastern Butte County, most occur in Plumas County.

Intermediate (transition) ranges are located in between the summer and winter ranges and are used by deer during the spring and fall migration. Much of the use in these areas is of a short-term nature.

Migration Corridors are the routes used by deer moving between summer and winter ranges. These routes are intensively used travel lanes within intermediate (transition) range.

Holding Areas are defined as sites along migration corridors where deer delay for several days to take advantage of preferred forage and cover conditions. Such areas may be of critical nature in maintenance of the herd.

Spatial needs of deer vary according to habitat type. Currently deer densities in Butte County vary from one deer per ten acres to one per 47 acres. Most of the critical ranges support approximately one deer per 25 acres. Although use may vary from year to year, lower deer densities generally are found in the higher (elevation) densely vegetated winter ranges and in the lower (elevation), sparsely vegetated portion of the winter range. Critical ranges provide optimum habitat conditions for deer and therefore supports the highest concentration of deer.

In Butte County, deer winter range extends from the valley floor to nearly 4,000 feet in elevation. The critical winter range generally extends from 1,000-3,000 feet in elevation.

Factors adversely influencing deer use of winter ranges include habitat disturbance and destruction, predation from feral dogs, physical barriers to movement, and disturbance from human activities. Most of the deer - development conflicts in Butte County occur on winter ranges and along migration corridors.

Radio Telemetry Studies

To aid in identification of deer movement and habitat use, data from radio telemetry, deer tag records and field investigations have been compiled, analyzed, and compared to previously known information on migratory deer. Using the Migratory Deer Herd Maps developed in 1983 as a base reference, data from the telemetry studies were compiled. The trap site location, movement (straight-line), and summer range of each radio-collared deer were plotted, then analyzed for the presence of migration corridors and holding areas using the following definitions:

- 1) Migration Corridor - The merging of travel routes of two or more study animals.
- 2) Holding Areas - Area of migrational delays by one or more study animals.

Interpretation of travel route data for some study animals was incomplete due to "gaps" caused by an insufficient number of telemetry data points. Although straight-line connections between data points tends to oversimplify movement, sufficient data was obtained to identify additional migration corridors and holding areas. This new information was included in the 1983 baseline deer maps, copies of which were transmitted to the Butte County Planning Department.

Subdivision - Deer Relationships

Deer Habitat Requirements

In the absence of human disturbance, deer use varies according to food, cover, water, and weather conditions. Topographic features such as slope steepness, slope aspect and their accompanying vegetative patterns provide an interspersed of forage and varied cover patterns (escape cover, thermal cover, etc.).

In Butte County, the ability of the seasonal ranges to meet the habitat needs of migratory deer is being adversely affected by land subdivisions and development. Construction of access roads and dwellings remove essential forage and cover affecting key habitat components of the range. This impact is typically followed by further loss of habitat due to subsequent changes in surrounding land use (conversion of brush fields to pastures). These changes, plus increased levels of traffic, noise, and disturbance by dogs, reduce living space available for deer. Animals must compete with deer in the surrounding habitat for the

available forage and living space. The carrying capacity of the range is lowered as too many deer compete for the limited food. Excessive crowding invariably leads to unnatural high levels of predation and disease.

To reduce these impacts and to provide for the maintenance of a viable deer habitat, the Department has determined that basic minimum parcel sizes must be maintained on the deer ranges. Other mitigation measures are also necessary to provide the necessary protection and should be incorporated into project permits.

Summer range areas generally follow the same pattern of use intensity as winter range with additional consideration given to such factors as fawning areas. Although much of the summer range is within public lands, the concerns expressed for winter range are also applicable to that portion of the summer range on private lands.

Land Use Analysis

From a planning perspective, it was assumed that parcels will be developed (e.g., a dwelling will be constructed) after division into parcels of less than 40-acres. Based on this evaluation the Department is evaluating ranges which may be already lost due to approved parcel maps of subdivision maps and is mapping such areas.

The proposed criteria used for deletion of lands from identification as deer range are as follows:

1. Parcels are currently less than 20 acres.
2. Parcels of less than 160 acres that are bordered on three or more sides by parcels of less than 20 acres may be deleted depending upon deer use and values.
3. Migratory movement to and from the parcel has been blocked by parcels of less than 20 acres.
4. Habitat within the parcel is not suitable for migratory deer use under current or projected conditions.

Using information from the 1986 Assessor Parcel maps, parcel sizes within migratory deer ranges were delineated. Superimposing this information on 1983 deer range maps, the impact of existing subdivision was analyzed. From this information, it becomes evident that deer use on about 40 percent of the winter range has been adversely affected or rendered unsuitable for use by migratory deer. It is also evident, from a planning perspective, that not only will important range lands be adversely affected but

surrounding lands may also be affected by creation of barriers to movement. It is critical to the welfare of the herds that measures to mitigate future impacts be implemented.

In an effort to find a balance between deer habitat protection and development, we have attempted to identify areas designated as Agriculture-Residential (AR) in the General Plan where development could continue to occur on private lands where it would have minimal impact upon migratory deer. Considerable additional effort is needed to refine these areas and to revise habitat maps accordingly. The Department will be requesting assistance from Butte County in this effort.

Except for specifically identified deer migration "windows", lands that are designated AR in the General Plan, that are located along specific transportation corridors could be developed within 660 feet from the road. However, residential dwellings should be clustered along roads.

Specifically identified deer migration "windows" must remain in minimum parcel sizes of 40 acres. To allow free movement of migratory deer, a one-fourth-mile migration window is considered necessary. In existing developed areas, windows less than one-fourth-mile should be maintained.

The Department identified areas using the above standards where future development may occur with minimum impact upon migratory deer. Combined with the loss of deer range due to existing development, substantial acreage of deer range will be lost. (Those areas are shown in red on the acetate overlay superimposed over migratory deer ranges). This places a greater burden on the remaining lands to provide for the needs of migratory deer.

SUMMARY

The impact of land subdivision upon migratory deer has resulted in a significant loss of valuable deer range. As previously indicated 40 percent of Butte County ranges have been adversely impacted or rendered unsuitable for migration deer use. However, much of the development - migratory deer issue can be resolved through implementation of mitigation measures to assure future protection. These actions involve only minimum change to the General Plan. Since these measures allow controlled development to occur in certain areas, deer use of a portion of their range will be eliminated. This places greater emphasis upon the remaining habitat to support deer use.

Implementation of the recommended actions will: 1) limit development to lands already impacted by subdivision or to lands

along identified transportation corridors designated as AR in the General Plan, and 2) create a fund to be used for projects on the remaining deer ranges to improve the quality of habitat for deer. Sites selected for improvement should be determined by the Department of Fish and Game working closely with the Butte County Fish and Game Commission.

RECOMMENDATIONS

1. On deer ranges where existing parcel sizes have adversely affected deer use or where development may be permissible (using the aforementioned criteria), further subdivision may be approved, provided a mitigation fee is assessed to further study, protect, and/or improve migratory deer or their habitat elsewhere in Butte County.
2. Adoption of the mitigation fee structure similar to that proposed by the Deer Study Panel or as adopted by Yuba County (see Appendices A and B).
3. Except where modified by number #1 above, a 40 acre minimum parcel size wildlife constraint be placed on critical winter and summer ranges, migration corridors and fawning areas. The Land Use Element of the General Plan should be amended to provide this designation.
4. Except where modified by number 1, a 20 acre minimum parcel size wildlife constraint be placed on Designated Winter and Summer ranges and Intermediate ranges. The Land Use Element of the General Plan should be amended to provide this designation.
5. Adopt and enforce a County dog control ordinance within migratory deer ranges as depicted in Appendix C..
6. Establish perimeter fence design criteria. On parcels greater than five acres in migratory deer range, the perimeter fence should be limited to barbed wire unless a special use permit is obtained. To allow passage of deer, the fence should be constructed of four strands or less of barbed wire, with the bottom wire a minimum of 16 inches and the top wire a maximum of 48 inches above the ground.
7. On lands within migratory deer ranges other than those designated as AR in the General Plan, maintain existing General Plan designations and existing minimum parcel sizes with an additional overlay of the wildlife constraints described in 2 and 3 above.

8. A 100-foot and 50-foot no building buffer zone be established along each side of permanent and intermittent streams in order to maintain critical habitat elements.
9. Building envelopes should be designated as part of approval of parcel and subdivision maps along transportation corridors.

GENERAL PLAN POLICY

The following policies should be incorporated into the land use element of the General Plan.

1. Provide for the protection of migratory deer through the maintenance of minimum parcel sizes of 20 and 40 acres on designated and critical ranges and other mitigation measures as identified in this report.
2. Recognize the need to regulate development in identified deer ranges to facilitate the survival of the deer herd.

APPENDIX A

BUTTE COUNY DEER HERD STUDY PANEL REPORT

Create a deer habitat improvement fund by establishing a one time fee for allowing development of less than 40 acres minimum parcel size in critical summer and winter range and 20 acre minimum parcel size in noncritical summer and winter range. The fee (\$45/acre in critical summer and winter range and \$25/acre in noncritical summer and winter range) would be paid by the landowners when they apply for a building permit. The fund would be to improve deer habitat elsewhere in the County as mitigation for development impacts along designated transportation corridors.

Alternative to fee structure:

<u>Acres</u>	<u>Fee/Acre</u>
0-10	\$45
10.01 - 20	\$25
20.01 - 39.99	\$15
40+	No fee

APPENDIX B
YUBA COUNTY

SCHEDULE OF RECOMMENDED IMPACT FEES

Existing Parcel Size	Proposed Lot Size*	Parcel Map Stage		Building Permit Stage
		<u>Critical Winter</u>	<u>Winter Range</u>	
40+ acres	40 acres	\$150	\$ 75	\$175
	20 acres	\$250	\$150	\$250
	10 acres	\$300	\$250	\$350
	5 acres	\$350	\$300	\$350
20-39.9 acres	20 acres	\$250	\$120	\$250
	10 acres	\$300	\$200	\$350
	5 acres	\$350	\$240	\$350
10-19.9 acres	10 acres	\$ 75	\$ 65	\$265
	5 acres	\$ 90	\$ 75	\$265

* Fees would be assessed against each new lot proposed.

APPENDIX C

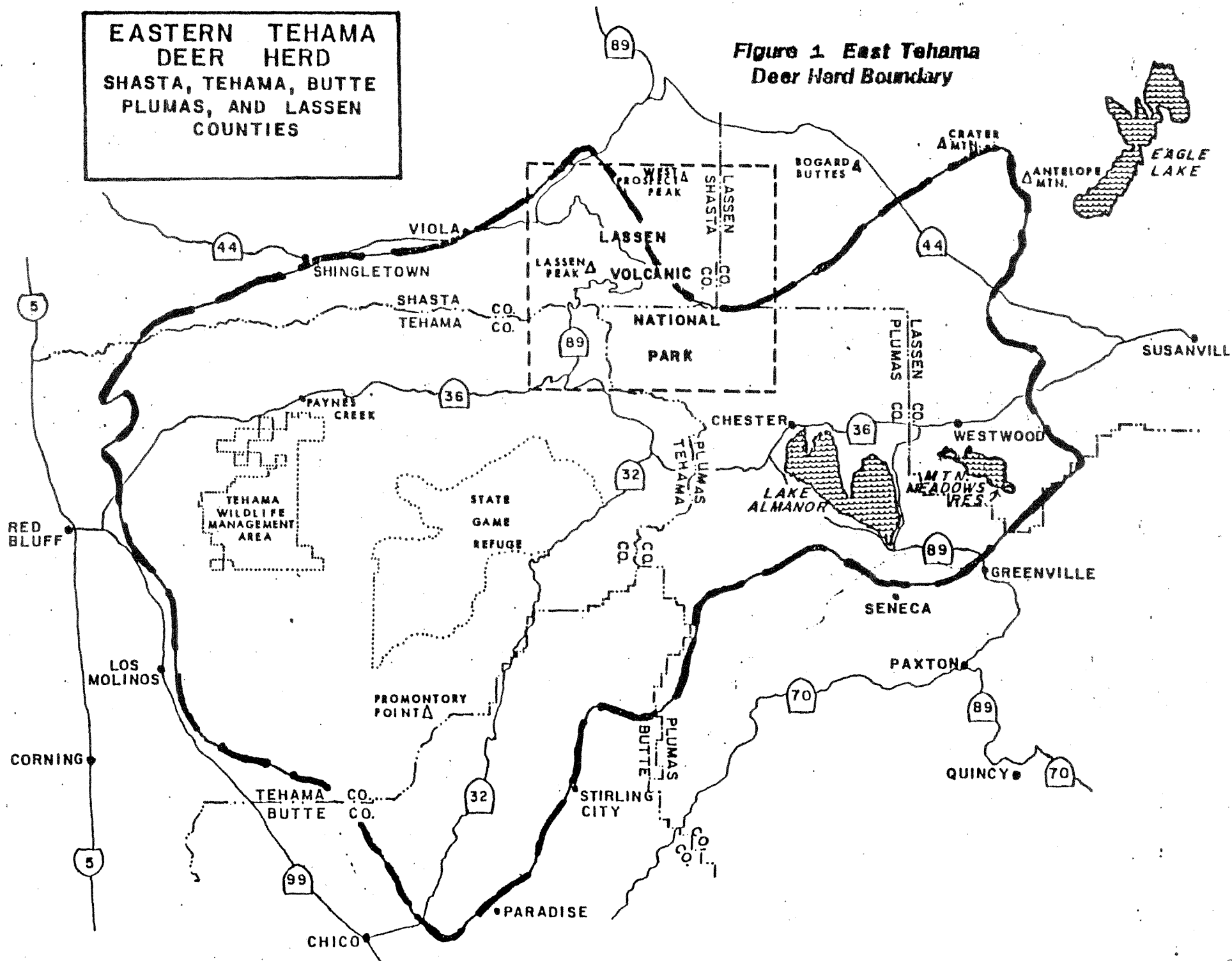
PROPOSED REVISED BUTTE COUNTY DOG ORDINANCE

112. The provisions of this ordinance shall apply to the unincorporated, undeveloped, or very low density residential areas in the foothills and mountains east of Highway 99 (see Exhibit available at Butte County Planning Department, 7 County Center Drive, Oroville, for specific locations where ordinance applies).
113. In any instance in which a dog or dogs is/are observed killing, wounding, or pursuing deer, except as noted in Section 114, the person observing this action may kill the dog(s) if they are on their own property, have the permission of the landowner, or are on public lands (e.g. U.S. Forest Service, Bureau of Land Management, etc.).
114. The provisions of Sections 112 and 113 shall not apply to any of the following:
- a. Any area within the corporate limits of any city, or within any developed rural or residential area with lot sizes of less than three acres.
 - b. Any dogs being used for the purpose of lawful training or hunting during prescribed dog training or hunting seasons.
 - c. Dogs in the immediate presence and under direct control of the owner. The dog must be in close proximity to the owner and the owner must demonstrate effective control of the dog.
115. The provisions of this act do not provide a legal reason for unauthorized trespass. Offending dogs may be shot only by persons with a right or permission to be on the property.

All incidents occurring under this provision, whether or not the offending dog or dogs are shot, must be reported to local law enforcement officials including Department of Fish and Game personnel.

**EASTERN TEHAMA
DEER HERD
SHASTA, TEHAMA, BUTTE
PLUMAS, AND LASSEN
COUNTIES**

**Figure 1 East Tehama
Deer Herd Boundary**



X-12 617

FIGURE 2

BUCKS MOUNTAIN DEER HERD

(The boundary on this
map is generalized)

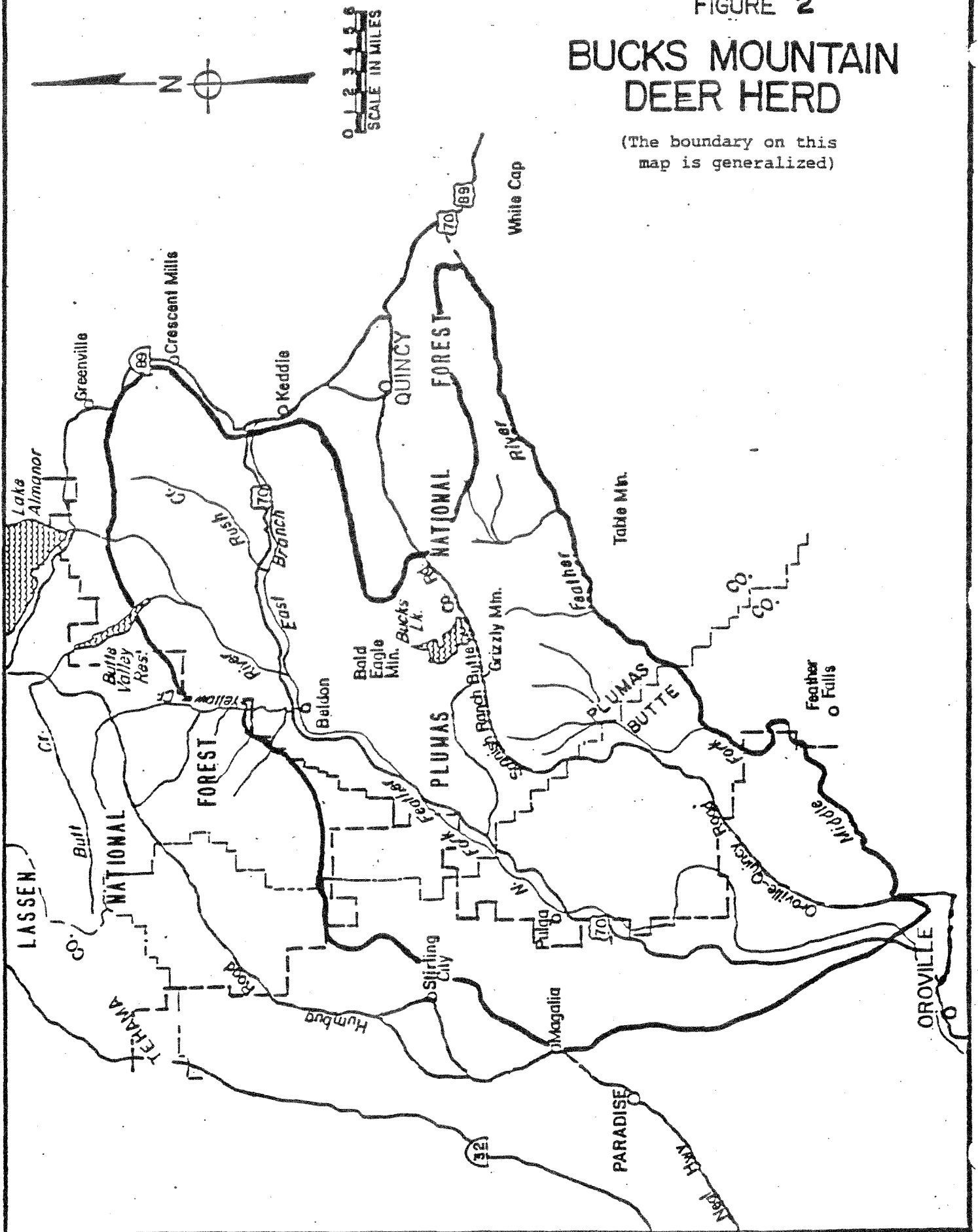
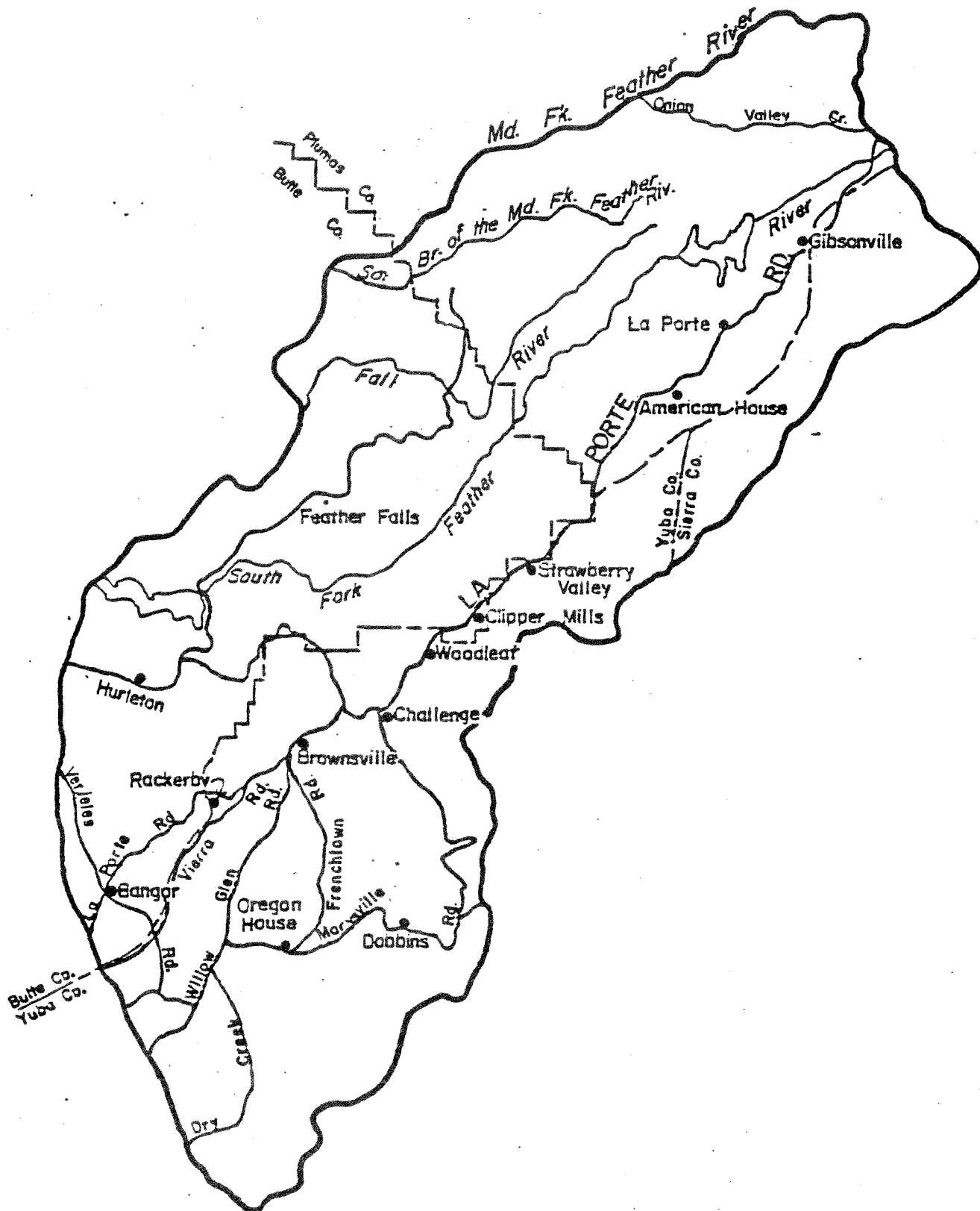


FIGURE — 3

(The boundary on this



DEER MANAGEMENT
PROGRAM SUMMARY
October 1987

Deer are the most abundant and widely distributed big game mammal in California. They use both migratory and resident strategies to adapt to a variety of habitats and geographical conditions. There are over 100 separate deer herds recognized and the Department has completed management plans for 79 units which deal with a single herd or group of similar herds. Summaries of these plans are being produced as a public information service. This herd-by-herd management program, including necessary restrictions on hunter numbers, was mandated by the Legislature in 1977. In 1978, the Department recommended and the Fish and Game Commission adopted regulations to implement the existing program.

To put these major changes in perspective, it is necessary to briefly review the history of California deer herds. Prior to the 1840's, deer occurred in numbers generally lower than exist today with the exception of the Central Valley. Deer were scarce in the dense timbered forest regions. Following the discovery of gold in 1848, a period of unregulated hunting exploited deer herds as meat hunting was common. Deer numbers were drastically reduced during the period 1849-1900 by a combination of unregulated hunting, changes in vegetation (logging and agriculture), livestock competition and severe winters. After 1907, programs designed to restore deer breeding stocks were initiated. They included legal protection, creation of refuges, changes in forest management, control of deer predators and reduction in livestock competition. The natural vegetation changes following logging and reduced livestock grazing increased valuable deer forage in virgin forests and on heavily grazed ranges. The period 1920-1940 was a time of deer recovery to fully stocked ranges.

Between 1940 and 1960 deer numbers remained relatively high contributing to range and habitat damage. In response to these conditions, the Department recommended additional hunting opportunities, including antlerless deer hunts to allow the public to use the surplus deer produced as a result of the recovery era. These actions were not universally supported by the public as some individuals felt the recovery programs were still needed to maintain healthy deer herds and that there never could be too many deer for the habitat to support. Unfortunately, these major disagreements resulted in statutory changes in 1957 which have limited deer management options in the majority of our herds.

In the late 1960's, and early 1970's, the effects of supporting too many deer on some important ranges coupled with factors such as bad weather, loss of habitat associated with major development (agriculture, reservoirs, roads and urban expansion) dramatically reduced deer numbers. In more localized situations, diseases and parasites were problems as well as imbalances in seasonal range components for some migratory herds. Similar trends were also experienced by deer herds throughout the western states in the mid 1970's. Along with the decline in deer numbers came a corresponding decline in the hunting harvest, hunter success rates and, as expected, hunter satisfaction.

To address this major deer management problem, the Department formed a committee to develop options for restoring healthy herds and providing high quality, diversified use of the deer resource. A Plan for California Deer was produced in 1976 which served as the basis for legislation enacted in 1977 that revised the deer management statutes and created the current system. The major features included the mandate to designate deer management units and prepare plans for these units with specific objectives for restoring and maintaining healthy deer herds and providing for high quality diversified use of deer. In addition, the new statutes modified the mechanism for 37 of the 58 counties to modify or object to antlerless and either sex deer hunts by requiring the board of supervisors to hold a public hearing rather than the Commission and Department. This legislation also provided specific authority to the Commission to restrict hunter numbers when the Department determined that it was necessary to prevent adversely affecting deer herds, impairing the hunting experience or endangering the public safety.

The first major step in changing hunting regulations occurred in 1978 when the state was subdivided into deer management units and hunters were required to select the zone or zones in which they wished to hunt. These zones closely corresponded to the deer herd boundaries. In 1979, the first quota zone (X-5b) was created primarily in response to the critically low post-season buck numbers, poor hunter success and poor quality hunting experience. It was the only quota zone in effect during 1979-1981. In 1982, two additional quota zones were added (X-5a and X-10). Three zones were added to the quota restrictions in 1983 (X-6, X-7 and X-8) with three more added in 1984 (X-7b, X-9 and X-11). In 1985, ceilings were established for all remaining deer zones, except the large coastal Zone A. The final step was the adoption of quotas for all zones, except A, in 1986. These quotas are set annually based on a careful review of previous harvests, hunter success rates and deer herd conditions with the intent to achieve and maintain approved herd objectives.

To meet the mandate of providing high quality, diversified use of deer, the Department has recommended special deer hunts for late season bucks, antlerless and either sex deer as well as special methods of take (archery and muzzle-loading rifles). These special hunts offer the public opportunities which are not available during the general seasons. They have special restrictions on the number of permits available and are specifically intended to achieve objectives of herd management plans and Commission policies.

A major positive action in support of deer management was taken by the Legislature in 1984 when it enacted a bill (AB 3735, Hill) to increase the cost of deer tags, with a portion of the increase earmarked for implementing approved deer herd plans. In the initial year (FY 1985-86) approximately \$940,000 was generated and the Department was authorized to spend \$900,000 for habitat improvement, research and improved surveys of deer populations and ranges. The FY 1987-88 program budget is \$1.78 million. Approved habitat improvement projects include prescribed burning to improve deer forage, planting preferred deer forage and increasing the availability of water in deficient areas. Projects will affect over 36,000 acres of habitat. Research and surveys include studies to define important seasonal ranges and migration

routes for protection and future improvement, expanded herd composition counts to determine herd productivity, additional disease research related to bluetongue and predator/deer relationship studies. A total of 99 projects has been funded in the amount of \$1.225 million for FY 1987-88.

Emphasis for habitat protection has also been placed on input into land use planning, both on public and private lands. Standard deer habitat maps have been developed for all migratory deer herds. These maps and other information have been provided to county boards of supervisors as a basis for identifying and protecting critical deer habitats. In addition, expansion of the Private Lands Wildlife Management Area Program has also assisted in protecting and improving deer habitat in 17 counties.

Statement by the Department of Fish and Game presented at the Interim Hearings
October 28, 1987

MY NAME IS KEN HASHAGEN. I AM THE HATCHERY COORDINATOR FOR THE DEPARTMENT'S STATEWIDE HATCHERY SYSTEM.

THIS AFTERNOON, I HAVE BEEN ASKED TO GIVE YOU A BRIEF OVERVIEW OF CALIFORNIA'S HATCHERY SYSTEM. IT IS DIFFICULT TO TALK ABOUT THE SYSTEM WITHOUT TALKING NUMBERS. I WILL NOT ATTEMPT TO OVERWHELM YOU WITH DATA, BUT I AM PREPARED TO PROVIDE YOU WITH ADDITIONAL INFORMATION IF YOU DESIRE SPECIFICS. WE OPERATE 21 HATCHERIES, 1 PLANTING BASE, 1 QUARANTINE STATION, AND REARING PONDS ON THE KLAMATH RIVER. OF THE 21, 1 RAISES STRIPED BASS, 1 CATFISH, 11 TROUT, AND 8 SALMON AND STEELHEAD. SEVEN HATCHERIES ARE MITIGATION HATCHERIES, BUILT TO MITIGATE THE LOSS OF FISH AND UPSTREAM HABITAT THROUGH THE CONSTRUCTION OF A DAM.

THE HATCHERY SYSTEM EMPLOYS APPROXIMATELY 160 PEOPLE. THE COST TO OPERATE THE SYSTEM IS APPROXIMATELY \$11 MILLION ANNUALLY. WE REAR APPROXIMATELY 53.5 MILLION FISH EACH YEAR: 11.5 MILLION CATCHABLE TROUT, 8 MILLION FINGERLING TROUT, 32.5 MILLION SALMON AND STEELHEAD, 300,000 STRIPED BASS AND 1.2 MILLION CATFISH.

HATCHERIES HAVE BEEN IN EXISTENCE IN CALIFORNIA FOR OVER 100 YEARS AS EARLY BIOLOGISTS RECOGNIZED THE NEED TO AUGMENT NATURAL POPULATIONS IN AN EFFORT TO PROVIDE ANGLING OPPORTUNITIES FOR AN EVER INCREASING ANGLING POPULATION. CURRENT APPROXIMATELY 2.3 MILLION FISHING LICENSES ARE SOLD ANNUALLY.

RAISING 53.5 MILLION FISH IS NOT EASY. OUR HATCHERY PERSONNEL ARE EXTREMELY DEDICATED AND PROFESSIONAL, BUT LIKE ANY FARMER OR RANCHER, ARE CONSTANTLY FACED WITH FACTORS WHICH CAN OR DO AFFECT THE FINAL PRODUCTION. I'D LIKE TO DISCUSS THE MOST IMPORTANT OF THESE:

THE FACILITIES:

THE OLDEST HATCHERY STILL PRODUCING FISH IS MT. SHASTA HATCHERY IN NORTHERN CALIFORNIA, BUILT IN 1888; OTHERS WERE BUILT AS RECENTLY AS THE 1960'S AND 1970'S. THE DEPARTMENT HAS AN ACTIVE AND CONTINUOUS MODERNIZATION PROGRAM DESIGNED TO IMPROVE THE SURVIVAL OF THE FISH OR EFFICIENCY OF THE MANPOWER.

OVER THE YEARS, THE DEPARTMENT HAS REPLACED DIRT PONDS WITH CONCRETE RACEWAYS, IMPROVED AERATION AND WATER DELIVERY SYSTEMS, MODERNIZED SPAWNING AND INCUBATION FACILITIES, AND DESIGNED AND BUILT BETTER AND BIGGER TRUCKS TO TRANSPORT FISH TO LAKES AND STREAMS THROUGHOUT CALIFORNIA.

BIRDS

RANCHERS HAVE COYOTES, MOUNTAIN LIONS AND DISEASES TO CONTEND WITH; FARMERS HAVE INSECTS, DISEASES, AND RODENTS; HATCHERIES HAVE BIRDS (AND OCCASIONALLY RIVER OTTERS). FISH EATING BIRDS SUCH AS HERONS, EGRETS, SEA GULLS, CORMARANTS, PELICANS, CROWS, AND RAVENS CAUSE SIGNIFICANT LOSSES AT OUR HATCHERIES EACH YEAR. FEDERAL REGULATIONS LIMIT THE MEANS WE HAVE TO CONTROL BIRDS; AS A RESULT, LARGE POPULATIONS HAVE BUILT UP NEAR MANY OF OUR HATCHERIES. ANNUAL LOSSES STATEWIDE AVERAGE 10,000,000 FISH. THE MOST EFFECTIVE METHOD OF CONTROL IS TO BUILD A BIRD EXCLOSURE AROUND THE ENTIRE HATCHERY; 8 OF OUR 24 FACILITIES HAVE BIRD EXCLOSURES. SEVEN MORE ARE SCHEDULED (1 IN 1987-88, 2 EACH YEAR THEREAFTER). SEVEN FACILITIES ARE NOT CURRENTLY EXPERIENCING SIGNIFICANT LOSSES. BIRD EXCLOSURES ARE EXPENSIVE, WITH COSTS OFTEN APPROACHING \$15,000 TO \$250,000 PER INSTALLATION.

DISEASE

DISEASE PROBLEMS CAUSE LOSSES EACH YEAR. THERE ARE ABOUT 30 DIFFERENT DISEASES WHICH CAN AFFECT HATCHERY PRODUCTION. THE DEPARTMENT MAINTAINS A FISH DISEASE LABORATORY, WITH A STAFF OF EIGHT, TO INSPECT FISH AND RECOMMEND TREATMENTS. IN CONJUNCTION WITH THE PRIVATE AQUACULTURE INDUSTRY, THE DEPARTMENT HAS CATEGORIZED DISEASES BY THEIR SEVERITY AND ESTABLISHED POLICIES FOR DISPOSING OF DISEASED FISH. SOME DISEASES FISH MUST BE DESTROYED, OTHERS CAN ONLY BE PLANTED IN DRAINAGES WHERE THE DISEASE IS ALREADY PRESENT, AND OTHERS MAY BE TREATED AND RELEASED AS SCHEDULED. THE DEPARTMENT MEETS OR EXCEEDS THE ESTABLISHED POLICIES IN THEIR OWN HATCHERIES. LOSSES WHICH ARE ATTRIBUTED TO DISEASE ARE INCREASING AND WILL INCREASE IN THE NEAR FUTURE BECAUSE OF RESTRICTIONS PLACED ON THE USE OF CERTAIN CHEMICALS BY THE FEDERAL GOVERNMENT OR REGIONAL WATER QUALITY CONTROL BOARDS. MALACHITE GREEN AND FORMALIN, TWO OF OUR MOST EFFECTIVE CHEMICALS HAVE BEEN BANNED. HIGHER LOSSES CAN BE ANTICIPATED UNTIL AN EFFECTIVE REPLACEMENT CAN BE DEVELOPED.

WATER QUALITY AND CLIMATE

WATER QUALITY AND WEATHER CONDITIONS CAN ALSO AFFECT HATCHERY OPERATIONS. FOR EXAMPLE, HIGH, TURBID FLOWS AT OUR WARM SPRINGS HATCHERY NEAR HEALDSBURG IN 1986 AFFECTED THE VIABILITY OF STEELHEAD EGGS AND THE SURVIVAL OF FRY. THE POOR WATER RESULTED IN A 46% LOSS OF THE 2 MILLION EGGS TAKEN. FLOODS AND DROUGHTS, SUCH AS WE ARE EXPERIENCING RIGHT NOW AFFECT HATCHERY OPERATIONS AND THE SURVIVAL OF THE FISH RELEASED.

MECHANICAL

EQUIPMENT FAILURES ARE RESPONSIBLE FOR LOSSES EACH YEAR. EXAMPLES RANGE FROM TRUCKS THAT BREAK DOWN WHILE PLANTING FISH TO BACK-UP GENERATORS THAT DON'T OPERATE WHEN POWER FAILURES OCCUR.

HUMAN FAILURE

LOSSES CAN ALSO BE ATTRIBUTED TO HUMAN ERROR, VANDALISM, AND POACHING. HUMAN ERROR INCLUDES THE EMPLOYEE WHO FAILS TO SET A SCREEN PROPERLY OR CROWDS FISH IN THE PONDS UNTIL THEY BECOME STRESSED, OR MISCALCULATES A CHEMICAL DOSAGE. RECENTLY EMPLOYEES OF EAST BAY MUNICIPAL UTILITY DISTRICT CAUSED LOSSES OF FISH AT MOKELUMNE RIVER FISH FACILITY WHEN THEY INADVERTENTLY SHUT OFF THE WRONG VALVE WHILE WORKING ON THEIR HYDRO-ELECTRIC PLANT. VANDALISM OCCURS WHERE HATCHERY VISITORS TURN OFF THE WATER OR PUT SOAP OR OTHER CHEMICALS IN THE WATHER. LATE NIGHT VISITORS TO THE HATCHERIES POACH ADULT BROODSTOCK OR CATCHABLE-SIZED FISH.

THE SIGNIFICANT POINT I'D LIKE TO MAKE IN CONCLUDING MY REMARKS IS THAT CALIFORNIA HAS AN EXCELLENT HATCHERY SYSTEM AND EXCELLENT PROFESSIONAL STAFF. EACH YEAR WE RAISE A CROP OF FISH; LOSSES AT ONE HATCHERY ARE OFFSET BY SURPLUSES SOMEWHERE ELSE IN THE SYSTEM. OUR PRODUCTION GOALS ARE MET EACH YEAR. WE NEED TO CONTINUE TO MODERNIZE OUR FACILITIES AND LOOK FOR BETTER METHODS OF CONTROLLING DISEASES AND REARING FISH.

NDFA

P.O. Box 8066

Vallejo, California 94591

PHONE: (707) 642-3870

James Clayton

Director/NDFA

NATIONAL DOMESTIC FERRET ASSOCIATION

Senators, Legislators, Congressmen and to whom
it may concern:

This is to bring a subject to your attention that is long overdue concerning Fish and Game and what they have been doing to the people of California concerning our pet Domestic Ferrets. They were never given any power over our domestic pets yet the senseless murder of our loving animals still goes on. For an agency that is supposed to be protecting animals our Dept. of Fish and Game seem to have taken it upon themselves to be the lawmakers in this state, as well as the executioners.

I, for one have two court cases pending against them in the superior court system for what they have done concerning pet ferrets. One is a criminal case, the other a civil case. There are other suits waiting to be filed all across the State of California for the same disregard for animal life and the law. Some of these are already pending in the court systems.

It is the feeling of this association that a lot of unnecessary headaches for the State Dept, could be avoided if an agreement were reached by the Domestic Ferret people of the State and the State Dept. itself. What we are asking is not only quite reasonable it is also beneficial to all who are concerned in the respect that it would remove most of the headaches concerning pet ferrets from the State Dept. and let Ferret experts deal with the animals from here on, at least until the higher courts have straightened it all out. I have no doubt that the higher courts will agree with us, the ferret people, on this ferret issue. What we are proposing at this time just makes GOOD SENSE for everyone concerned.

Please read all the information that I am submitting to you at this time about Domestic Ferrets so that you will be more educated and informed of the truth about these exceptional animals. The Dept of Fish and Game has misinformed all of you, as well as the general public with regards to Domestic Ferrets.

Inclosed is also the agreement that I speak of and it is my hope that we can come to terms with this situation before there are any more problems created for the State Dept. and before any more of our pets have to suffer for someone's ignorance or political prejudices.

Thank you,
James Clayton

PRIVATE LANDS WILDLIFE MANAGEMENT
PROGRAM SUMMARY
October 1987

In 1979, the Legislature approved a three-year pilot program to test the feasibility of providing incentives to landowners to protect and improve wildlife habitat on their property. It involved a five-county area in which five ranches, ranging in size from 6,500 to 270,000 acres, were licensed. In 1983, based on a favorable experience obtained in this pilot program, a number of supporters encouraged the Legislature to enact the current statutes which extended the program statewide. The primary intent was to prevent the loss of valuable wildlife habitat on private property by offering incentives to landowners to make sound use of wildlife. Without incentives, important wildlife habitat on private lands will continue to be lost to incompatible development. Since approximately 50 percent of the state's land, including a substantial amount of important habitat, is in private ownership, the future of California's wildlife is dependent upon the condition of this habitat.

As specified by statute and regulation, any landowner or combination of landowners may apply for a private lands wildlife management area license. The procedure requires that a management plan be prepared and submitted to the Department with a nonrefundable application fee (currently \$400). The plan must contain:

1. legal description of the property;
2. description and estimates of wildlife and habitat affected by the program;
3. management objectives;
4. detailed description of proposed management recommendations intended to achieve the objectives; and
5. the county general plan land use designation for the area.

Management plans are initially reviewed by appropriate staff in the Department's regional offices. They are either approved as submitted, returned with recommended changes or rejected. If a plan is rejected, the applicant may appeal the Department's decision directly to the Fish and Game Commission. Plans approved at the regional level are forwarded to the Sacramento headquarters where they receive additional review prior to Commission consideration. The Director makes a final recommendation to the Commission and requests that the subject plan be scheduled as an agenda item for a public hearing. Background information regarding all plans is made available to the public upon request. The mandatory annual renewal process follows a similar procedure and includes a field inspection to verify habitat protection and enhancement work has been accomplished as prescribed in the approved management plan. Following the public hearing on each plan and renewal request, the Commission may approve the plan as submitted, modify the proposal or reject the plan. If approved, a license containing specific conditions for hunting and/or fishing is issued along with an inventory of harvest tags valid only during the approved seasons on the subject area.

As prescribed in the Commission's regulations contained in Section 601, Title 14, California Administrative Code, set fees are paid to the Department by licensees for each tag and seal issued to a permittee. The fees range in cost from \$.25 for an upland game seal to \$165 for an elk tag. These fees may be adjusted by the Commission to meet the Department's costs incurred in administering the program.

A number of issues and concerns have been raised related to the program. The following brief summary is intended to generally address some of those issues:

1. Does the Department of Fish and Game verify habitat improvements?

Response - Yes. A field inspection at least once each year is conducted on each licensed area for the purpose of verifying habitat protection and improvement.

2. What is the quality of management plans and do they comply with the California Environmental Quality Act (CEQA)?

Response - The quality and complexity of management plans vary just as the size and capabilities of each area differ greatly. Some are prepared by the landowner/applicant while others are prepared by consultants. However, there are minimum requirements specified by law and regulation which must be met. The Commission complied with CEQA when it adopted regulations establishing the subject program.

3. Has illegal hunting in wildlife refuges occurred under the program?

Response - No. The Legislature authorized the Fish and Game Commission to permit hunting in game refuges following notice, a hearing and upon issuance of appropriate permits. Hunting has been allowed under the program in the Hayden Hill Game Refuge, Lassen County for waterfowl and deer with appropriate restrictions. This same refuge has been open to the public for pronghorn antelope hunting in recent years and other refuges are opened to hunting to provide additional opportunities when they are biologically justified.

4. What is the impact of exclusively extended hunting seasons on wildlife populations?

Response - Extended hunting seasons approved under this program are designed to maintain healthy populations. Since the licenses contain maximum harvest levels which are well below the sustained yield, populations are not harmed by later seasons. In many cases, the harvest is stratified to further restrict the take of deer during a late season. In all cases, the best available biological information is used to determine a sound yet biologically conservative harvest. As directed by Commission policy, the Department has recommended public hunts which are similar to those approved on private lands areas.

5. Does the value of habitat improvements correspond to the economic return to landowners who sell hunting rights to the highest bidder?

Response - The value of wildlife habitat improvements and protection accomplished through the program to date is considerable. Obtaining conservation easements on over 703,000 acres involved in the program would not be practical with available public funds. Landowners have traditionally sold hunting rights. Most area operators do not sell access by bidding procedures. Access fees are generally related to the nature of services rendered, length of hunts, quality of the experience and a number of other factors. Fees quoted in the media often represent gross costs and do not indicate a profit margin to the rancher.

6. Does the Department of Fish and Game verify herd counts submitted by participating ranchers?

Response - Herd counts submitted by area operators are not the sole basis for evaluating the plans. In general, the Department uses the best available biological information including verified surveys and approved deer herd management plans. The same data are used to develop general season hunting proposals.

In summary, this program did not create fee hunting in California. Evidence suggests that access fees as high or higher are paid for hunting opportunities outside the program. By contrast, average seven-day guided deer hunts in Rocky Mountain states cost \$1,000-1,500 not including transportation. Private lands hunts offer an alternative to going out-of-state for high quality hunting opportunities. The benefits produced on the 54 currently licensed areas, involving over 703,000 acres in 17 counties are important to the landowners, hunters and the general public in terms of insuring healthy more productive wildlife resources in the future.

Distribution of tags and seals:

<u>Species</u>	<u># of Tags</u>
Deer;	
Bucks	1,195
Antlerless	835
Either-sex	<u>342</u>
Subtotal	2,372
Antelope	19
Elk	6
Wild Pig	320
Bear	4
Wild Turkey	112
Quail	1,730



Sportsmen's Council of Central California

REPRESENTING THE COUNTIES OF:
FRESNO - KERN - KINGS - MADERA - MARIPOSA - MERCED - MONTEREY - SAN BENITO - TULARE - STANISLAUS
SAN LUIS OBISPO - SANTA BARBARA - SANTA CRUZ

AFFILIATED WITH:
CALIFORNIA WILDLIFE FEDERATION
NATIONAL WILDLIFE FEDERATION

2340 Janin Way
Solvang, CA 93463
10/23/87

Hon. Jim Costa, Chairman
Water, Parks, and Wildlife Committee
Hon. Gary A. Condit, Chairman
Government Organization Committee
State Capitol
Sacramento, CA 95814

Subject: Private Lands Wildlife
Management Program

Gentlemen:

Being unable to attend your hearing on the Private Lands Wildlife Management Program, I wish to submit the following as testimony. I am representing the Sportsmen's Council of Central California.

My name is Stanley R. Radom. I am Chairman of the Legislative Committee of the Sportsmen's Council of Central California, Vice Chairman of the Santa Barbara County Fish and Game Commission, active member of five Clubs, serve on Boards of Directors of two organizations, am a licensed commercial fisherman, and a Coast Guard Licensed Charterboat Captain. I have served as President of the California Wildlife Federation as well as this Council. I have hunted in Alaska, Yukon, Canada, and throughout the Western States over the past 42 years, and am a member of the Grand Slam Club. I have fished waters in the Atlantic, and Pacific from Alaska to the South Pacific. My career spans 35 years, serving as a Marine Corps Officer, and engineer, retiring after serving the last twenty years as Technical Director of two major National Missile and Space Test Ranges (Navy and Air Force).

I have attached as enclosures Sportsmen's Council of Central California Resolutions 1-86 and 2-86 which were prompted upon learning about the manner in which AB580 Private Lands Wildlife Program (PLWMP) was being implemented.

**** OUR PREMISES ARE:**

1. The wildlife of the State belong to all the people of the State. This has always been upheld in the courts.
2. The fate and future of the State's wildlife must involve all of the people of the State.
3. The public most certainly agree that habitat for wildlife on private lands should be managed to benefit wildlife. However, neither the wording of AB580, or Fish and Game Code/Title 14 indicate or infer that different seasons, bag limits, and sexes would be allowed.

Z1b.

4. Contrary to what DFG told State Fish and Game Commissioners (as noted in minutes of the meetings), DFG did not "hold meetings with several sportsmen's groups and county fish and Game commissions. When speaking to the Commissioners, DFG Deputy Director Fox stated that "Initially the Department may not have adequately educated the public about the PLWMP concept".

5. Adjacent private land owners, U.S. Forest Service, and Bureau of Land Management were not informed or consulted in the matter of special seasons, length of seasons, and bag limits. There are bitter feelings that have not fully surfaced because of the "neighbor relationship" i.e. cattle crossing each others boundaries. There should have been a call for public comment before programs were approved for ranches that adjoined public lands; and comments obtained from owners of adjoining private lands.

6. There was no promulgation of information on AB580 implementation plans sufficient to adequately inform the public. There was no period for prior public comment on the proposed manner in which the PLWMP was to be implemented.

7. A socio-economic analysis and the resource impact was not done on 750,000 acres of private land being managed on the basis of different deer (elk and antelope) seasons, bag limits and sexes allowed for kill. This indicates that the impact of the program should be reevaluated against the public's understanding of the wording contained in Assembly Bill 580.

8. What were the compelling reasons for going from the previous land owner trespass/hunting fees during regular zonal seasons to the PLWMP? Several ranches had increased revenues by providing a place to hunt during regular seasons and bag limits. Was it the depressed beef market and/or depressed crop prices vs the cost of production? Mr. Jack Parnell, then Director of The DFG was referred to as the "Prime mover" of the PLWMP. His memo to staff indicated that he supports the program, and expected the staff to do likewise. Why would the DFG solicit ranchers and up front offer "Fishing and hunting opportunities that may start before, or extend beyond, traditional seasons, set different bag limits, and "Sell tags or permits to individuals of your choice", and "Deduct expenses for improvements from State and Federal Taxes"?

9. Allowing special late seasons and bag limits on big game before habitat improvement has actually shown an increase in quantity and quality of deer, is an unacceptable management practice. How can different season and bag limits be allowed on a ranch of only 640 acres? Was the DFG season and bag limit for that zone in error?

10. As a former county planning commissioner, I can understand the concern of some individuals that "ranches are selling animals with fees commensurate with weight and/or antler size!". Should the ranch be rezoned because a product is being sold on the premises? Should the ranch have a county business permit? Is the Williamson tax advantage still legitimate?

11. Has the program been oversold? DFG Biologist John Massie states in the official DFG publication OUTDOOR CALIFORNIA "When it comes right down to dollars and cents, the program makes wildlife much more valuable to the rancher than livestock. Livestock requires capital cost, feeding, labor, interest, equipment and many other expenses. On top of that is the uncertain market value from year to year. Wildlife only require the minimal cost of improving the habitat. The animals feed themselves and have a constant market value with most of the income being profit". This all-encompassing statement is an oversimplification of a complex matter. The factors of disease, fawn survival rates; predation by lions, coyotes, bobcats, and dogs; road kill; poaching; and cyclic die-offs of deer (that even the biologists cannot explain). Habitat alone cannot assure a healthy and growing deer herd. Deer in this State are dying by the thousands because of Blue Tongue and Epizootic Hemorrhagic Disease. It is known that the no-see-um insect that spreads Blue tongue is found around dirt water tanks that have become near-stagnate and fouled by excreta. Ranches that have been issued permits in the PLWMP have not agreed to replace dirt tanks with metal or fiberglass water tanks.

Furthermore, the general decline is reflected in the following: In 1975 700,000 deer hunting permits were purchased. In 1986 less than 300,000 permits were purchased, and 29,000 deer were harvested. This is a nine percent success rate, which is the worst in the western States. Is the PLWMP expected to turn this around?

12. One rancher has remarked to me that he's "joining the PLWMP because why should I bust my ass? I'm putting some of my fields in the CRP (Conservation Reserve Program), get paid for taking them out of production, and run hunting for cash. Is this the intent or result of AB580?

13. In Santa Barbara County, several thousand dollars each year are provided to the U.S. Forest Service for prescribed burns to improve wildlife habitat in the county. Funds and volunteer labor are also provided to DFG and Forest Service to improve springs, and install water guzzlers for wildlife. Having evaluated the results, why can't we be granted a special late deer season like the PLWMP so the unattached hunter can have a possible chance at a large buck? Hunting in mid-summer is

often referred to as "mid-summer madness", with large areas under fire closure, extreme heat inland, and heavy coastal fogs. When an effort was made to get a later season, the then Director of DFG stated that "The ranchers don't want a late season in the area". There is some irony here.

14. There has developed widespread concern that the DFG does not have the funds or the personnel to adequately administer the PLWMP. Ranch permits, the majority which were three year permits issued at \$100 per year (now \$125), plus the tags issued at \$10 (now \$20) in no way can provide funds for administration of the PLWMP. At a meeting in Sacramento last July 1st, DFG admitted a shortfall of some \$87,000 in the program, and that "Two temporary biologist-technicians were being hired to evaluate and monitor the program". There is no way that two technicians can competently monitor 69 ranches covering 750,000 acres, and conduct enough on-site work to produce an acceptable confidence level. The public has a legitimate concern that funds will be taken out of sportsmen's license and tag fees to support wildlife ranching for profit.

15. The public cannot be kept in the dark in regard to the manner in which AB580 is being implemented. At the August 28, 1987 meeting, I requested that the State Fish and Game Commission direct that all PLWMP ranches, their location, seasons, number of tags and bag limits for each species, be listed in the DFG hunting regulation pamphlet. This is public information that must be promulgated, and no longer avoided. This same request was made at the meeting with DFG on July 1, 1987. It is understood that fees charged cannot be listed because it would constitute competitive advertising.

16. At the Fish and Game Commission meeting of 11/7/86, Commissioner Murdy requested the DFG to see that all PLWMP permittees have a condition of their permit to allow unlimited and unannounced access to assure compliance with permit terms. President Kahn further requested that DFG be provided keys to all ranches in the program. These requests have not been satisfied.

17. Under present procedures, A person with two Zone A tags can go to a PLWMP ranch in Modoc County where there is a one buck - three point antler regulation, and take two forked horn bucks. Furthermore, if a member of the public draws an antelope permit, he must not apply for another permit for ten years. He can however, go to the right PLWMP ranch, pay his fees, and buy an antelope permit. Fish and Game Code Section 3406 exempts PLWMP ranches from procedures in noticing, and approving antlerless deer hunts.

18. It is difficult to understand some PLWMP rationale. As an example, The Fitzpatrick Ranch did not want a season corresponding to his D2 zone because "The Cow Creek herd is migratory and are available on his property during the winter". He was allowed a season extending through December 31st. In

otherwords, the hunters observing the regular season lose out on quality bucks, only to have them shot at a later season on a PLWMP ranch. The DFG is mandated to provide management of fish and wildlife resources for the benefit of all citizens of the State, not a privileged few that can afford it. It is disturbing to read about out-of-State bookings for California deer hunts, especially when "trophy hunts during the rut" are highlighted.

19. In matters of parity of the public vs PLWMP seasons, the DFG has provided misleading information to the Fish and Game Commission. As an example a memo from DFG to F&G Commission stated that there was parity in granting the Battle Mountain Ranch in Tulare County, a deer hunt in December. The memo states that "A late buck hunt is available to the public in the adjacent X-10 Zone which extends to December 13th with 850 permits". In actuality only Period 4 of X-10 is in December and is for only 75 permits. Several thousand hunters applied for the very low probability of receiving one of the 75 permits in the difficult terrain of Inyo County.

20. IN SUMMARY :

a. The purpose of AB580 was well meaning. However implementation procedures were instituted by the DFG without public input, without comment from adjoining private landowners, and without consultation with the Bureau of Land Management, and U.S. Forest Service.

b. The program is discriminatory for:

Those who cannot afford the fees.

Adjacent land owners who observe regular seasons, and thus pressure deer to move onto PLWMP ranches where they are shot during later seasons,

Those that miss out on quality hunting because of migrations that move animals onto PLWMP ranches where they are shot during late seasons.

Those dedicating time and funds for habitat improvement on public lands.

c. The DFG lacks the personnel and funds to adequately administer the program, either from a scientific/biological basis or from an enforcement basis.

d. "Write-ups" by the owner have been considered adequate for issuance of a permit. Without a comprehensive baseline study, it will be difficult to determine what actual habitat improvement has been accomplished.

e. Failure to conduct a socio-economic analysis and resource impact on 750,000 acres indicates possible non-compliance with the California Environmental Quality Act.

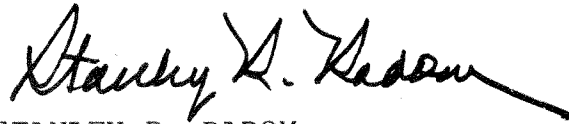
f. The DFG, in hurriedly implementing the program to avoid reaction, has lost public support. The door has now opened for possible adjudication in the courts on the matter of "privatization" of publicly -owned wildlife.

**** RECOMMENDATION**

That PLWMP Ranches conform to the seasons and bag limits for the DFG Zone in which they are located. However, if it can be shown that habitat improvement has been accomplished, the land owner be provided the number of tags that the ranch can support, without the necessity of their hunting customers trying "the luck of the draw" for DFG tags. If the program cannot be corrected, this should at least be for new and renewal permits.

I have taken the liberty of enclosing an article which covers the manner in which a similar program is being handled prior to approval by the Wyoming State Legislature.

Respectfully submitted,

A handwritten signature in black ink, reading "Stanley R. Radom". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

STANLEY R. RADOM
Chairman,
Legislative Committee



Sportsmen's Council of Central California

REPRESENTING THE COUNTIES OF:
FRESNO - KERN - KINGS - MADERA - MARIPOSA - MERCED - MONTEREY - SAN BENITO - TULARE - STANISLAUS
SAN LUIS OBISPO - SANTA BARBARA - SANTA CRUZ

AFFILIATED WITH:
CALIFORNIA WILDLIFE FEDERATION
NATIONAL WILDLIFE FEDERATION

SPORTSMEN'S COUNCIL OF CENTRAL CALIFORNIA

RESOLUTION 1-86

WHEREAS the wildlife of the State belong to the people of the State, and

WHEREAS equal opportunity should be afforded citizens to hunt for game animals without discrimination as to race, creed, color or affluence, and

WHEREAS the Department of Fish and Game Private Lands Wildlife Management Program allows property owners to set deer seasons later than seasons on adjoining public lands and private lands not not under this special program, and

WHEREAS sportsmen do not object to a land owner charging a trespass fee to hunt on his land, they strongly object to a program that allows the land owner to capitalize on private late seasons where deer including larger bucks migrate from public lands onto their land, and where earlier hunting pressure moves deer from adjoining public and private lands onto his land, and

WHEREAS the Fish and Game Code mandates that sufficient populations of wildlife be maintained "For the beneficial use and enjoyment by the citizens of the State", meaning all the citizens of the State, and

WHEREAS high-priced late season hunts on private lands discriminate against the average citizen-hunter both from the impact on the deer resource, and the fact that the tariff is unaffordable, thus depriving them from what should be a comparable opportunity, and

WHEREAS it is evident that the socio-economic analysis, and the resource impact of over a half-million acres of private land being managed on the basis of different deer seasons and sexes allowed for kill, has not been adequately done, thus indicating that impact of the program should be reevaluated against the public's understanding of Assembly Bill 580, and

THEREFORE BE IT RESOLVED that the Fish and Game Commission reexamine the manner in which the Private Lands Wildlife Management Program is being implemented, and

Z7b. 636

In Unity There Is Strength to Better, Propagate, Conserve, and Harvest our Fish, Wildlife, and Natural Resources



AFFILIATED WITH:
CALIFORNIA WILDLIFE FEDERATION
NATIONAL WILDLIFE FEDERATION

Sportsmen's Council of Central California

REPRESENTING THE COUNTIES OF:

FRESNO - KERN - KINGS - MADERA - MARIPOSA - MERCED - MONTEREY - SAN BENITO - TULARE - STANISLAUS
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THEREFORE BE IT FURTHER RESOLVED that public hearings be held prior to the issuance of permits where private lands adjoin public lands, and hearings be held for prior coordination with owners of adjacent private lands, and

THEREFORE BE IT FURTHER RESOLVED that existing permits under the Private Lands Wildlife Management Program be amended to conform to deer seasons and bag limits on adjoining lands.

ADOPTED BY UNANIMOUS VOTE OF
OFFICERS AND DELEGATES

Watsonville, California
June 8, 1986

151

HENRY A. DODDRIDGE
President

Cys: F&G Comm (Kahn)
DFG (Parnell)
CWF (Upholt, McKay)
Assembly (Kelley)
USFS
BLM

Z8b. 637



AFFILIATED WITH:
CALIFORNIA WILDLIFE FEDERATION
NATIONAL WILDLIFE FEDERATION

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SPORTSMEN'S COUNCIL OF CENTRAL CALIFORNIA

RESOLUTION 2-86

WHEREAS adverse reaction from the public is becoming widespread upon learning of the Department of Fish and Game's Private Lands Wildlife Management Program, primarily because of permits for private lands hunting during seasons other than zoned for adjacent public lands, and

WHEREAS a lack of coordination in implementing this program has become apparent,

THEREFORE BE IT RESOLVED that whenever a proposal for private lands wildlife management is made on property adjacent to lands supervised by another governmental agency, such as the U.S. Forest Service and the Bureau of Land Management, that agency be consulted in advance, and be included in coordination of the management plan.

ADOPTED BY UNANIMOUS VOTE OF
OFFICERS AND DELEGATES

Watsonville, California
June 8, 1986

/s/

HENRY A. DODDRIDGE
President

Cys:

F&G Comm (Kahn)
DFG (Parnell)
CWF (Upholt, McKay)
Assembly (Kelley)
BLM
USFS

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